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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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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.

This publication is available online for free at 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 us 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.

CONTACT US

The Honorable Michele Reagan
Office of the Secretary of State
1700 W. Washington Street, Fl. 7
Phoenix, AZ 85007
(602) 364-3223

The Office of the Secretary of State is an equal opportunity employer.
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

START HERE
APA, statute or ballot proposition is passed. It gives an agency authority to make rules.
It may give an agency an exemption to the process or portions thereof.

Agency opens a docket.
Agency files a Notice of Rulemaking Docket Opening; it is published in the Register. Often an agency will file the docket with the proposed rulemaking.

Agency drafts proposed rule and Economic Impact Statement (EIS); informal public review/comment.

Notice of meetings may be published in Register or included in Preamble of Proposed Rulemaking.
Agency opens comment period.

Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing

Agency decides not to proceed and does not file final rule with G.R.R.C. within one year after proposed rule is published. A.R.S. § 41-1021(A)(4).
Agency decides not to proceed and files Notice of Termination of Rulemaking for publication in Register. A.R.S. § 41-1021(A)(2).

Agency decides not to proceed and closes docket.
The agency may let the docket lapse by not filing a Notice of Proposed rulemaking within one year.

Substantial change?
If no change then
Rule must be submitted for review or terminated within 120 days after the close of the record.

A final rulemaking package is submitted to G.R.R.C. or A.G. for review. Contains final preamble, rules, and Economic Impact Statement.

G.R.R.C. has 90 days to review and approve or return the rule package, in whole or in part; A.G. has 60 days.

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing with the Secretary of State (unless otherwise indicated).

Final rule is published in the Register and the quarterly Code Supplement.
Definitions


 Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at 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.

 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.


 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.

 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

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.
NOTICES OF PROPOSED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the Register within three weeks of filing. See the publication schedule in the back of each issue of the Register for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

[R16-220]

PREAMBLE

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2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
   - Authorizing statute: A.R.S. § 15-182(E)(5)
   - Implementing statute: A.R.S. §§ 15-182(E)(1), 15-183(I)(1) through (4), and 15-183(R)

3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
   - Notice of Rulemaking Docket Opening: 22 A.A.R. 823, April 15, 2016

4. **The agency’s contact person who can answer questions about the rulemaking:**
   - Name: Whitney Chapa, Executive Director
   - Address: State Board for Charter Schools
   - 1616 W. Adams St., Suite 170
   - Phoenix, AZ 85007
   - or
   - P.O. Box 18328
   - Phoenix, AZ 85009
   - Telephone: (602) 364-3091
   - Fax: (602) 364-3089
   - E-mail: whitney.chapa@asbcs.az.gov
   - Web site: www.asbcs.az.gov

5. **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 is amending its rules to make them consistent with statutory changes made in 2012 and 2013, to make the changes identified as needed in a five-year-review report approved by Council on October 4, 2016, and to place in rule the Board’s academic, financial, and operational expectations for charter holders.
   - An exemption from Executive Order 2015-01 was provided for this rulemaking by Dawn Wallace, Education Policy Advisor in the Governor’s office, in an e-mail dated January 6, 2016.

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:**
   - The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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 Board believes the rulemaking will have minimal economic impact on current charter holders and applicants for a charter. The rulemaking involves no substantive change to the Board’s current rules and policies. Rather, it clarifies existing rules and places policies into rule so the policies are more readily available to applicants and charter holders.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:
   Name: Whitney Chapa, Executive Director
   Address: State Board for Charter Schools
             1616 W. Adams St., Suite 170
             Phoenix, AZ 85007
             or
             P.O. Box 18328
             Phoenix, AZ 85009
   Telephone: (602) 364-3091
   Fax: (602) 364-3089
   E-mail: whitney.chapa@asbcs.az.gov
   Web site: www.asbcs.az.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:
   An oral proceeding regarding the proposed rules will be held as follows:
   Date: Tuesday, November 29, 2016
   Time: 3:00 p.m.
   Location: ASBCS Office
             1616 W. Adams St., Suite 170
             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:
   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:
      Charters issued under Article 2 and amendments made under Article 3 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:
      There are numerous federal laws that apply to public schools. However, no federal law is directly applicable to the subject of these rules. The rules are no 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:
      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:
    None

13. The full text of the rules follows:

   TITLE 7. EDUCATION

   CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

   ARTICLE 1. GENERAL PROVISIONS

   ARTICLE 2. APPLICATION FOR A NEW CHARTER; APPLICATION FOR CHARTER REPLICATION
Section R7-5-201. Application for a New Charter  
R7-5-202. New Charter Application Processing Fee  
R7-5-203. Time-frames for Granting or Denying a New Charter  
R7-5-204. Review of Administratively Complete Application Package for a New Charter, Technical Assistance, and In-Person Interview  
R7-5-205. Execution of a New Charter  
R7-5-206. Good-Cause Extension to Execute a New Charter  
R7-5-207. Good-Cause Suspension of a New Charter  
R7-5-208. Application for Replication Charter  

ARTICLE 3. CHARTER OVERSIGHT  
POST-CHARTER ACTIONS  

Section R7-5-301. General Provisions  
R7-5-302. Application for Charter Renewal; Early Renewal of Charter  
R7-5-303. Charter Transfer Application  
R7-5-304. Charter Amendment Requests  

ARTICLE 4. AMENDMENT TO A CHARTER  
MINIMUM PERFORMANCE EXPECTATIONS  

Section R7-5-401. Amendment to a Charter Minimum Academic Performance Expectations  
R7-5-402. Minimum Financial Performance Expectations  
R7-5-403. Minimum Operational Performance Expectations  
R7-5-404. Development and Use of Performance Frameworks  

ARTICLE 5. AUDITS AND AUDIT CONTRACTS  
CHARTER SUPERVISION  

Section R7-5-501-R7-5-502. Audit Guidelines General Supervision, Oversight, and Administrative Responsibility  
R7-5-503. Audit Completeness Determinations Annual Academic Performance Review  
R7-5-504. Review of Complete Audit Annual Audit and Financial Performance Review  
R7-5-505. Annual Operational Performance Review  
R7-5-506. Five-year-interval Review  
R7-5-507. Complaints  
R7-5-508. Demonstration of Sufficient Progress towards Minimum Academic Performance Expectations  
R7-5-509. Financial Performance Response  
R7-5-510. Corrective Action Plan  

ARTICLE 1. GENERAL PROVISIONS  

R7-5-101. Definitions  
For the purpose of In this Chapter, the following definitions apply:  

“Academic performance dashboard” means color-coded graphics that represent a charter school’s academic performance by measure for the three most recent fiscal years and identifies whether the schools operated by the charter holder meet the minimum academic performance expectations.  

“Academic Performance Framework” means a document publicly available and posted on the Board’s website that sets forth the minimum academic performance expectations for charter schools, measures of progress towards meeting the expectations, and consequences of failing to meet the expectations.  

“Accounting industry regulatory body” means any state or federal regulatory body that has the authority to discipline a certified public accountant or audit firm.  

“Administrative completeness review time-frame” means the number of days from the Board's receipt of a submission for Board consideration until the Board staff determines whether the submission contains all components and is formatted as required by statute and rule. The administrative completeness review time-frame does not include the period during which the Board performs a substantive review of the submission.
“Annual application cycle” means a new charter application the process which is conducted the Board conducts each year to receive and review new charter applications and grant or deny charters for the operation of new a charter schools and is based on the earliest fiscal year in which a new charter school may begin operation.

“Applicant” means a person that applies to the Board for a new charter, a person who applies to transfer a charter from another charter school sponsor, a charter holder who applies to renew or replicate a charter sponsored by the Board, or a charter holder who applies to transfer an existing charter school site operated under a charter sponsored by the Board to a separate Board-sponsored charter held by the same charter holder.

“Application” means the Board-approved forms and instructions used by an applicant or charter holder to apply for a new charter, transfer a charter, or renew or replicate a charter sponsored by the Board.

“Application package” means an application form, narratives, and documents, including exhibits and attachments, as submitted by an applicant or charter holder.

“ASBCS Online” means the Board’s web-based interface which is accessible through the website of the Arizona State Board for Charter Schools.

“Audit” means a charter holder’s annual audit, as required by A.R.S. § 15-914.

“Audit contract” means an engagement letter provided by an audit firm that describes the terms of a contract between a charter holder and the audit firm.

“Audit firm” means a business that conducts an independent audit for a charter school.

“Audit guidelines” means the Board-approved general guidance on charter school audit requirements, which is available online.

“Authorized representative” means an individual with the power to bind an applicant contractually according to the applicant’s Articles of Incorporation, operating agreement, or by-laws.

“Board” means the Arizona State Board for Charter Schools.

“CAP” means corrective action plan.

“Charter” means a contract between a person and the Board to operate a charter school under A.R.S. § 15-181 et seq.

“Charter holder” means a person that enters into a charter with the Board.

“Charter representative” means an individual with the power to bind a charter holder contractually according to the charter holder’s Articles of Incorporation, operating agreement, or by-laws and is the point of contact for the Board for the purposes of communication and accountability to contract terms and conditions.

“Charter school” means a public school operated under a charter granted under A.R.S. § 15-181 et seq.

“Date of notice” means the date on which an electronic notification is sent by the Board to an applicant or charter holder through the authorized representative or charter representative.

“Day” means a business day.

“Demonstration of sufficient progress” means the process for a charter holder to show the charter holder is making progress towards achieving the minimum academic performance expectations specified in the Academic Performance Framework.

“Department” means the Arizona Department of Education.

“Education Service Provider” means an organization that contracts with or has a governance relationship with an applicant to provide comprehensive services.

“Financial performance dashboard” means a color-coded graphic that represents a charter holder’s financial performance by measure for the two most recent audited fiscal years and identifies whether the charter holder’s financial performance meets the minimum financial performance expectations.

“Financial Performance Framework” means a document publicly available and posted on the Board’s website that sets forth the minimum financial performance expectations for charter holders, measures of performance, and consequences of failing to meet the expectations.

“Fiscal year” means the 12-month period beginning July 1 and ending June 30.

“Good standing” means that a supervising certified public accountant or audit firm has no current or pending disciplinary action or any regulatory action that requires the supervising certified public accountant or audit firm to complete conditions specified by an accounting industry regulatory body.

“Operational performance dashboard” means a color-coded graphic that represents a charter holder’s operational performance by measure for up to the five most recent fiscal years and identifies whether the charter holder’s operational performance meets the minimum operational performance expectations.
“Operational Performance Framework” means a document publicly available and posted on the Board’s website that sets forth the minimum operational performance expectations for charter holders, measures of performance, and consequences of failing to meet the expectations.

“Overall time frame” means the number of days after receipt of a submission for Board consideration until the Board decides whether to grant or deny the request contained within the submission. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.

“Oversight” means regulatory actions of the Board towards a charter holder. The Board has determined is in noncompliance with its charter, other contractual agreements with the Board, or statutory requirements or is not making sufficient progress toward meeting the Board’s performance expectations.

“Peer review” means an external quality control review, as required by generally accepted government auditing standards, that determines whether an audit firm’s internal quality control system is in place and exists, is operating effectively, and provides assurance that established policies and procedures and applicable auditing standards are being followed.

“Performance expectations” means the minimum academic, financial, and operational performance expectations established by the Board.

“Person” means an individual, partnership, corporation, association, or public or private organization of any kind.

“Preliminary application package” means an administratively complete application package that is forwarded to the Technical Review Panel for scoring.

“Principal” means the officers, directors, members, partners, or board of an applicant or charter holder.

“Revised application package” means an application package including revisions submitted by an applicant after receiving written notification that the applicant's preliminary application package failed to meet the scoring requirements of R7-5-204.

“Serious impact finding” means an issue identified by the Board that in the opinion of the Board believes has or potentially has a significant detrimental impact on the operation of the charter school or students, such as threat to the health and safety of children, failure to meet the academic needs of the children, gross violation of generally accepted accounting principles that increases the opportunity for fraud or theft, or repeat issues of noncompliance.

“Submission deadline” means a date and time established each year by the Board and identified in the application for a new charter by which a new charter application package shall be submitted to the Board to be considered in a specified annual application cycle.

“Sufficiently qualified” means the Board's determination that an applicant's application package, knowledge and understanding of the application package, experience, qualifications, current and prior charter compliance, capacity, personal and professional background, and creditworthiness indicate an ability to implement a charter or operate a charter school in accordance with federal and state law and the requirements of statute and rule.

“Supervision” means actions taken by the Board to observe and assess whether a charter holder is complying with its charter, other contractual agreements with the Board, and federal and state law and meeting performance expectations.

“Technical Review Panel” means individuals approved by the Executive Director of the Board who use their expertise in charter school development, curriculum, and finance to assist in the evaluation of a preliminary or revised application package.

ARTICLE 2. APPLICATION FOR A NEW CHARTERS CHARTER; APPLICATION FOR CHARTER REPLICATION

R7-5-201. Application for a New Charter
A. By March 31 of each year, the Board shall approve and make available online at its website on ASBCS Online an application for a new charter for a specified annual application cycle.
B. A person desiring to establish a charter school shall submit an application package online through the web-based application wizard on ASBCS Online by the submission deadline identified in the application.
C. A person may utilize an alternate submission process and submit a complete application package by using:
The web-based application wizard on ASBCS Online; or
A detailed educational plan,
A detailed operational plan, and

Any person who submits a timely waiver request waives the right to have the Board consider any application package submitted through ASBCS Online during the same annual application cycle.

The Board shall send an acknowledgment of timely receipt of a waiver request within 10 days of receipt of a waiver request.
Any person who submits a timely waiver request waives the right to have the Board consider any application package submitted through ASBCS Online in the same annual application cycle. Instead, such a person shall only submit an application package according to the alternate submission process instructions and by the alternate submission process submission deadline identified in the application.

An applicant for a new charter shall ensure that the submitted application package contains all the information, materials, documents, and attachments identified in the application for a new charter for the current annual application cycle and A.R.S. § 15-183(A), including the new charter application processing fee specified under R7-5-202, and is in the format specified in that the application, which shall together constitute:

1. A detailed educational plan,
2. A detailed business plan,
3. A detailed operational plan, and
4. Any other materials the Board requires.

R7-5-202. New Charter Application Processing Fee
Each applicant shall pay as specifically authorized under A.R.S. § 15-183(CC), the Board establishes and shall collect a new charter application processing fee, in accordance with A.R.S. § 15-183(CC) of $6,500 for each application package submitted to the Board.

1. The new charter application processing fee is $6,500 for each application package an applicant submits to the Board.
2-1. Each applicant shall pay the new charter application processing fee in the form of a single personal check or cashier's check with the applicant's name clearly identified on the front of the check that:
   a. Is made payable to Arizona State Board for Charter Schools,
   b. Has the applicant's name imprinted on the front of the check, and
   c. The check shall be delivered by mail or hand delivery to the Board office during regular business hours by the submission deadline.
2-2. Failure to timely submit the new charter application processing fee shall result in the Board staff shall deem an application package being deemed administratively incomplete under R7-5-203(B) if the new charter application processing fee is not received by the submission deadline.
4.3. All Board staff shall deposit all checks shall be deposited within five days of submission. If an applicant's new charter application processing fee payment to the Board check is dishonored for any reason including an insufficient funds check, Board staff shall:
   a. The application package shall be deemed administratively incomplete under R7-5-203(B), and
   b. The applicant shall use a cashier's check to pay the new charter application processing fee for any application package submitted to the Board by the applicant at any later date.
5-4. If an application package is found to be administratively incomplete, the Board shall require the applicant to pay any future fees to the Board by cashier's check.
5-5. If an application package is found to be administratively complete under R7-5-203(B), the new charter application processing fee shall become non-refundable except as required under A.R.S. § 41-1077(A).

R7-5-203. Time Frames for Granting or Denying a New Charter
A. For granting or denying a new charter, the time frames for granting or denying a new charter are:
   1. Administrative completeness review time-frame: 25 days;
   2. Substantive review time-frame: 175 days; and
   3. Overall time-frame: 200 days.
B. An application package for a charter school applicant for a new charter shall be submitted to the Board administratively complete if the application package by the submission deadline. An application package is complete if:
   1. The application package is from the current application cycle;
The application package contains all the information, materials, documents, attachments, signatures, and notarizations identified in the application for a new charter for the current annual application cycle;

All the application package's components are formatted as required by that application;

All curriculum samples address the required standard;

All templates are unmodified, completely filled out and completed, and from the current annual application cycle; and

The application processing fee has been paid according to required under R7-5-202(4), (2), and (4) is paid.

C. The administrative completeness review time frame, as time frame listed in subsection (A)(1), begins the day after the Board receives an application package.

D. If an application package is administratively complete, Board staff shall send the applicant a written notice of administrative completeness.

E. If an application package is administratively incomplete, Board staff shall:

1. If the application package is administratively incomplete when received, the Board staff shall provide to Send the applicant a written notice of deficiency that states the reasons the application package was found to be administratively incomplete;

2. Upon written notice to the applicant that the application package is administratively incomplete, the Board staff shall Administratively close the applicant's file; and

3. Refund the new charter application processing fee paid under R7-5-202.

a-F. If an applicant receives a written notice of deficiency under subsection (E) and if the submission deadline has not yet passed, an the applicant may correct the deficiencies in the administratively incomplete application package and submit a new application package in the same annual application cycle, under by complying with R7-5-201, the applicant shall pay a new application processing fee under R7-5-202.

b-G. An if an applicant receives a written notice of deficiency under subsection (E) and who believes their the application was erroneously designated as administratively incomplete, the applicant may submit a written request for reconsideration to the Board within 10 days of after the date of the notice of deficiency.

i-H. The An applicant that submits a written request for reconsideration under subsection (G) shall ensure the request: for reconsideration shall contain

1. Contains a clear statement indicating how the previously submitted application package fulfilled each of the requirements that were identified as having been deficient; and

2. The request for reconsideration shall not provide any Has no new or additional information, documents, or materials included or attached.

ii-L. Within 10 days after receiving a request for reconsideration, Board staff shall review the request and:

1. Determine whether the request complies with the requirements in subsection (H) and if not, that does not address each deficiency identified in the notice or that contains new or additional information, documents, or materials shall not be considered and send the applicant notice shall be notified that the request was not submitted according to subsection (i) and the applicant's properly and the applicant's file is remains closed;

ii-2. If the Board staff determines the application package was erroneously designated as administratively incomplete, the Board staff shall reopen the applicant's file and send the applicant a written notice of administrative completeness to the applicant; or

3. If the Board staff determines the application package was correctly designated as administratively incomplete, send the applicant notice the applicant's file shall remain remains closed.

3. If the application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.

4-L. If the Board staff does not provide a notice of deficiency or administrative completeness to the applicant within the administrative completeness review time frame, the application package is deemed administratively complete.

D-K. The The substantive review time frame, as time frame listed in subsection (A)(2), begins when an application package is determined to be administratively complete. The Board staff shall ensure the substantive review is conducted according to R7-5-204.

E-L. Within the time provided in subsection (A)(3), the Board staff shall provide the applicant with written notice of it's the Board's decision to grant or deny a charter.

1. The Board shall deny a charter if it the Board determines that the application package does not meet the requirements of statute or rule or the applicant is not sufficiently qualified to operate a charter school. The Board staff shall include in the written notice shall include the basis for the denial and other information required under A.R.S. § 41-1092.03. The An applicant that receives a notice of denial may:

a. Submit a new application package under R7-5-201 for consideration by the Board in any a later annual application cycle; or

b. Appeal the Board's decision under A.R.S. Title 41, Chapter 6, Article 10.

2. The Board shall grant a charter if it determines that the application package meets the requirements of statute and rule and the applicant is sufficiently qualified to operate a charter school.
R7-5-204. Review of Administratively Complete Application Package for a New Charter, Technical Assistance, and In-Person Interview

A. The Board shall ensure review of an administratively complete application package for a new charter is reviewed as follows:

1. The Technical Review Panel shall score the preliminary an application package using the evaluation criteria identified in the application to determine whether an application package meets the Board's scoring requirements.

a. The Technical Review Panel shall assign an application package a score of "Meets the Criteria," "Approaches the Criteria," or "Falls Below the Criteria" for each evaluation criterion.

i. The Technical Review Panel shall score an evaluation criterion "Meets the Criteria" when the application section within which that evaluation criterion is identified by the application:

(1) Addresses the evaluation criterion fully with specific and accurate information;
(2) Presents a partial understanding of the evaluation criterion; or
(3) Is clear and coherent.

ii. The Technical Review Panel shall score an evaluation criterion "Approaches the Criteria" when the application section within which that evaluation criterion is identified by the application:

(1) Presents a partial understanding of the evaluation criterion;
(2) Addresses the evaluation criterion partially and lacks specific and accurate information for some aspect of the evaluation criterion; or
(3) Is not clear and coherent.

iii. The Technical Review Panel shall score an evaluation criterion "Falls Below the Criteria" when the application section within which that evaluation criterion is identified by the application:

(1) Lacks specific and accurate information for some aspect of the evaluation criterion;
(2) Is not clear and coherent.

b. An application package meets the Board's scoring requirements if:

i. No evaluation criterion receives a score of "Falls Below the Criteria;"

ii. No more than one evaluation criterion in each application section is scored as "Approaches the Criteria;" and

iii. The application package receives a score of "Meets the Criteria" for at least 95% of the evaluation criteria in each plan (the educational plan, operational plan, and business plan) is scored "Meets the Criteria."

2-B. The Board staff shall conduct a background and credit check of each principal and authorized representative of the applicant and confirm determine whether each principal and authorized representative possesses a valid fingerprint clearance card issued by the State of Arizona.

a. If issues arise from the information obtained an issue arises during the background and credit check of any principal or authorized representative, the Board staff shall provide the pertinent principal or authorized representative written notice of the issues and the principal will have the opportunity to provide a written response clarifying the information. The Board shall consider information obtained from the background and credit check when making the decision to grant or deny a new charter.

b. Information obtained and communications conducted during this process shall be considered by the Board in making its decision on whether to grant or deny a new charter.

3-C. The Board staff shall notify the applicant if the preliminary application package fails to meet the Board’s requirements as evaluated by the Technical Review Panel specified under subsection (A)(3). Board staff shall provide written notice to the applicant. The Board staff shall provide include in the notice:

1. The reasons the application package failed to meet the Board’s requirements;
2. Comments of the Technical Review Panel, which will serve as technical assistance and suggestions for improving the application package; and
3. The options specified under subsection (D).

4-D. An application who receives notification that a preliminary application package fails to meet the scoring requirements as evaluated by the Technical Review Panel specified under subsection (C), the applicant may, within 20 days of the date of notice, submit to the Board:

1. A revised application package, or a
2. A written request that the preliminary previously submitted and scored application package be forwarded to the Board.

5-E. If a revised application package or written request is not submitted to the Board within 20 days of the date of notice that a preliminary application package fails to meet the scoring requirements as evaluated by the Technical Review Panel specified under subsection (C), the Board staff shall close the applicant's file. An applicant whose file is closed and who wants to obtain a new charter shall apply again under R7-5-201 in any later annual application cycle.

6-E. If an applicant submits a revised application package as specified under subsection (D), the Technical Review Panel shall score the revised application package using the scores and scoring requirements described in subsection (1) as specified under subsection (A).

7. If the revised application package fails to meet the Board’s requirements as evaluated by the Technical Review Panel specified under subsection (A)(3), the Board staff shall notify provide written notice to the applicant.
of the intent to close the file. The Board staff shall include with the notice the comments of the Technical Review Panel.

8-G. An applicant who receives notification of the Board staff's intent to close the file notice under subsection (F) may, within 20 days after the date of notice, submit a written request that the revised application package be forwarded to the Board.

9. If a written request is not submitted to the Board within 20 days of the date of notice that a revised application package fails to meet the scoring requirements, the Board staff shall close the applicant's file. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201 in any later annual application cycle.

10-H. At least 30 days prior to before the last Board meeting before the substantive review time frame expires, and within 90 days of the determination that a preliminary or revised application package meets the Board's requirements as evaluated by the Technical Review Panel, under subsection (A)(3) or the receipt of receiving an applicant's request under subsection (4) (D)(2) or (E)(G), that the Board consider an application package that fails to meet the scoring requirements as evaluated by the Technical Review Panel, the principals and authorized representative of the applicant shall make themselves available for an in-person interview with two or more members of the Technical Review Panel. In the interview, the members of the Technical Review Panel shall assess:

a. The applicant's understanding of the components presented in the written application package;

b. The applicant's capacity to implement a plan to operate a charter school in accordance with the performance framework adopted expectations established by the Board;

c. The applicant's clarification of any issues that arise issue revealed in the course of the due diligence process for any the applicant, any principal, authorized representative, or Education Service Provider; and

d. Any other factor relevant to determining whether the applicant is sufficiently qualified to operate a charter school.

11. Board staff shall provide an applicant with at least seven days written notice of the date, time, and place of the meeting at which the Board will consider the applicant’s application package and The Board shall consider an application package to determine whether to approve or deny the application package and whether to grant or deny the a new charter if the Technical Review Panel determines that the application package meets or exceeds the scoring requirements or if to the applicant requests under subsection (4) or (8) that the Board consider an application package that fails to meet the scoring requirements as evaluated by the Technical Review Panel.

a. For the purpose of deciding whether to approve or deny the application package, the Board shall consider:

i. The application package; and

ii. A copy of the scoring rubric completed by the Technical Review Panel.

b. For the purpose of deciding whether to grant or deny a new charter, the Board shall use the following information to determine whether the applicant is sufficiently qualified to be an applicant to operate a charter school:

i. The application package;

ii. A copy of the scoring rubric completed by the Technical Review Panel;

iii. The results of the in-person interview of the applicant's principals and authorized representative;

iv. Information obtained through verification and investigation and verification of the employment, experience, and education backgrounds including employment, experience, education, fingerprint clearance card, and assessment of creditworthiness for each of the principals, each principal and authorized representative of the applicant;

v. Information concerning any current or former charter operations for any principal, authorized representative, or Education Service Provider or principal of the applicant;

vi. A Board staff report; and

vii. Testimony presented at the Board meeting.

12. The Board shall provide an applicant, with at least seven days written notice of the date, time, and place of the meeting at which the Board will consider the applicant’s application package.

J. After the Board meeting held under subsection (I), Board staff shall provide written notice to the applicant regarding the Board’s decision to grant or deny a new charter to the applicant. If the Board denies a new charter to the applicant, the Board shall include the information required under A.R.S. § 41-1092.03 in the written notice.

R7-5-205. Execution of a New Charter

A. After the Board’s decision Board decides to grant a new charter, and but before the charter is signed, the applicant shall submit to the Board the following:

1. No change A completed I.R.S. Form W-9, Request for Taxpayer Identification Number and Certification, obtained from the Department or online at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

2. Charter school site location The following information including for each charter school site approved for educational use:

a. Certificate of occupancy for each charter school site approved for educational use; and

b. Fire marshal report for each charter school site approved for educational use, or

c. If either the certificate of occupancy or fire marshal report are not available, a completed Occupancy Compliance Assurance and Understanding form obtained from the Board;

3. A completed General Statement of Assurances form obtained from the Department;
B. A charter shall be signed by the The Board President or designee and authorized representative of the applicant shall sign the charter within 12 months after the Board's decision to grant the charter.

1. If the charter is not timely signed, the Board's decision to grant the new charter expires unless the applicant applies for and is granted a good-cause good-cause extension to execute the charter under R7-5-206.

2. If an applicant who that is granted a new charter but does not timely sign the charter and does not obtain a good-cause good-cause extension wants to obtain a new charter, the applicant shall apply again under R7-5-201 in any a later annual application cycle.

C. A charter holder shall begin providing educational instruction no later than the second fiscal year after the Board's decision to grant the charter, unless the charter holder is granted a good cause good-cause extension to execute a charter under R7-5-206 or good cause good-cause suspension of a charter under R7-5-207.

1. A charter holder who that is granted a good-cause good-cause extension to execute a charter under R7-5-206 or good-cause good-cause suspension of a charter under R7-5-207 shall begin providing educational instruction no later than the third fiscal year after the Board's decision to grant the charter.

2. If a charter holder does not begin providing educational instruction as required by subsections under subsection (C) and or (C)(1), the Board shall issue the charter holder a notice of intent to revoke the charter in accordance with A.R.S. § 15-183(I).

D. At least 10 days before beginning to provide educational instruction, a charter holder shall submit to the Board the following written proof that the charter school is in compliance with federal, state, and local rules, regulations, and statutes laws relating to health, safety, civil rights, and insurance.

1. Charter school site contact information;

2. Insurance policy binder issued by an insurance company licensed to do business in Arizona;

3. County health certificate for each site at which students will be taught;

4. Evidence of a public meeting, required by A.R.S. § 15-183(C)(7), at least 30 days before the charter holder opens a site for the charter school;

5. Certificate of attendance of the charter representative or principal at the special education training for new charters offered by the Department's Exceptional Student Services Division Department; and

6. Any other documents required to demonstrate compliance with federal, state, and local rules, regulations, and statutes laws relating to health, safety, civil rights, and insurance.

E. If a charter holder has completed submitted an Occupancy Compliance Assurance and Understanding form under subsection (A)(2), the Board shall not initiate state aid funding shall not initiate until the Board staff has determined that determines the required certificate of occupancy and fire marshal report submissions are complete and sufficient.

F. A new charter is effective upon the signing of by both parties for a term of 15 years commencing beginning on the date stated in the charter, unless revoked under A.R.S. § 15-183(I).

R7-5-206. Good Cause Good-Cause Extension to Execute a New Charter

A. Before the Board's decision to grant a new charter expires under R7-5-205(B), an applicant who that has not yet executed the charter may submit to the Board a written request for a good-cause good-cause extension to execute a charter.

1. The applicant shall ensure the written request for a good-cause good-cause extension to execute a charter shall:

   a.1. Explain and provide evidence why the applicant is unable to implement the plans contained in the application package and execute the charter within the allotted 12 months;

   b.2. Explain the applicant's new timeline for implementing the plans contained in the application package, and why the new timeline is viable and adequate for achieving the proposed to enable the applicant to execute the charter by the new timeline start-up date of the school and appropriate for operating a charter school in accordance with the performance frameworks adopted by the Board and requirements of statute and rules; and

   c.3. Provide clear and specific action steps with target completion dates that will enable the applicant to implement the plans contained in the application package in accordance with the new timeline provided and the requirements of R7-5-205(C)(1).

2-B. The Board may shall grant a good-cause good-cause extension to execute a charter if an applicant demonstrates good cause. When considering a request for a deciding whether the applicant demonstrates good cause extension to execute a charter, the Board shall consider:

   a.1. The timeliness of the submission of the request for a good-cause extension and the proposed extension date;

   b.2. The viability of the applicant's new timeline for implementing the plans contained in the application package;

   c.3. Whether the new timeline provided by the applicant is adequate to begin providing educational instruction as required under R7-5-205(C)(1) and complies with the plans contained in the application package;

   d.4. Unforeseen The circumstances affecting the applicant indicates affected the applicant's ability to execute the charter within the allotted 12 months;

   e.5. Whether there have been changes in the principals of the applicant; and
The status of good-cause

A charter holder that wishes to apply for a replication charter shall submit to the Board a Replication Eligibility form. Whether the charter holder is eligible under subsection (B) for a good-cause suspension of a charter;

The timeliness of the submission of the timeline provided not to R7-5-205(C)(1) and is good-cause

Prior to submitting an amendment to the charter indicating a new effective date which shall conform to R7-5-205(C)(1) and complies with the plans contained in the application package;

The charter holder has not been granted a good-cause suspension of a charter and shall not grant a good-cause suspension of a charter to any charter holder who previously received a good-cause extension to execute a charter for the same charter.

A charter holder who is granted a good-cause suspension may execute and submit an amendment to the charter indicating a new effective date which shall conform to R7-5-205(C)(1) and is the date on which the charter holder shall begin providing educational instruction.

A charter holder who is granted a good-cause suspension of a charter shall promptly return any such funding it receives prior to the fiscal year in which it begins providing educational instruction.

A charter holder shall begin providing educational instruction under the charter, and the charter holder has not begun providing educational instruction under the charter, and

The charter holder has not been granted a good cause suspension of a charter;

The charter holder has not received or has returned state equalization or other state or federal funding for which provision of instruction is a requirement until the fiscal year in which the charter holder plans to begin providing educational instruction.

The charter holder shall ensure the written request for a good cause suspension of a charter shall:

a1. Explain and provide evidence for why the charter holder is unable to implement the plans contained in the application package and begin providing educational instruction as required under R7-5-205(C);

b2. Explain the charter holder's new timeline for implementing the plans contained in the application package and why the new timeline is viable and adequate for achieving the proposed start up date of the school and appropriate for operating to enable the charter holder to operate a charter in accordance with the charter and performance frameworks adopted expectations established by the Board and requirements of statute and rule.

e3. Provide clear and specific action steps with target completion dates that will enable the charter holder to implement the plans contained in the application package in accordance with the new timeline provided and the requirements of R7-5-205(C)(1).

The Board may grant a good cause suspension of a charter if the charter holder demonstrates good cause. When considering a request for a decision whether the charter holder demonstrates good cause suspension of a charter, the Board shall consider:

1. Whether the charter holder is eligible under subsection (B) for a good-cause suspension of a charter;

2. The timeliness of the submission of the request for a good-cause suspension of a charter and the proposed extension date;

3. The viability of the charter holder's new timeline for implementing the plans contained in the application package;

4. Whether the new timeline provided by the charter holder is adequate to begin providing educational instruction as required under R7-5-205(C)(1) and complies with the plans contained in the application package;

5. Unforeseen circumstances affecting the charter holder indicates affected charter holder's ability to begin providing educational instruction as required under R7-5-205(C);

6. Whether there have been changes in the principals of the charter holder; and

7. The status of extent to which the charter holder is in compliance with all applicable federal, State, state, and local laws, and with all of the terms of the charter.

The Board shall not grant more than one good cause extension to execute a particular charter to any applicant for the same charter.

If the Board grants a good cause extension to execute a charter, the Board shall specify the date by which the applicant shall execute the charter and begin providing educational instruction based on the timeline provided by the applicant and the requirements of R7-5-205(C)(1). If the applicant does not execute the charter by the specified date, the Board's decision to grant the charter shall expire.

R7-5-207. Good Cause Good-cause Suspension of a New Charter

A. Prior to the first day of the fiscal year that in which a charter holder must begin providing educational instruction, the charter holder, if eligible under subsection (B), of a not-yet-operational charter may submit to the Board a written request for a good cause suspension of a charter.

B. A charter holder is eligible to apply for a good cause suspension of a charter if:

1. The charter holder has not been granted a good cause extension to execute a charter, and
2. The charter holder has not begun providing educational instruction under the charter, and
3. The charter holder has not received or has returned state equalization or other state or federal funding for which provision of instruction is a requirement.

2-C. The charter holder shall submit to the Board a written request for a suspension of a charter.

2-D. The Board staff shall review the form and determine whether the charter holder is eligible to apply for a replication charter.

3. A charter holder granted a good cause suspension of a charter and shall not grant a good cause suspension of a charter to any applicant for the same charter.

R7-5-208. Application for Replication Charter

A. The charter holder of an existing high quality charter school may be eligible to apply for a replication charter rather than a new charter. A replication charter allows the charter holder to implement the existing educational program, corporate and governance structure, and financial and operational processes at a new charter school.

B. A charter holder that wishes to apply for a replication charter shall submit to the Board a Replication Eligibility form. Board staff shall review the form and determine whether the charter holder is eligible to apply for a replication charter. A charter holder is eligible to apply for a replication charter if the charter holder is in compliance with provisions of its charter, contractual agreements with the Board, federal and state law and this Chapter, and meets the academic eligibil-
Within 15 days after receiving a Replication Eligibility form, Board staff shall provide written notice to the charter holder of whether the charter holder may apply for a replication charter and shall make the replication application available to the charter holder.

If a charter holder submits an application package for a replication charter by the last business day of September, Board staff shall process the application package in an expedited manner and ensure the application package is considered at the Board’s meeting in November.

As required under A.R.S. § 41-1073, the Board establishes the following time frames for approving or disapproving a replication charter:
1. Administrative review time frame: 15 days;
2. Substantive review time frame: 50 days; and
3. Overall time frame: 65 days.

The provisions at R7-5-205(A), regarding execution of a new charter, apply to a replication charter.

R7-5-206, regarding a good-cause extension to execute a new charter, and R7-5-207, regarding good-cause suspension of a new charter, do not apply to a replication charter.

ARTICLE 3. CHARTER OVERSIGHT: POST-CHARTER ACTIONS

R7-5-301. General Provisions
A. A change to a charter requires the consent of both the Board and charter holder. To obtain the Board’s consent to a change to a charter, the charter holder shall submit a charter amendment request to the Board.
B. A charter holder shall not act in a manner contrary to the terms of the charter without obtaining the Board’s prior consent to a change.
C. A charter holder shall submit a post-charter action request to the Board electronically through ASBCS Online. The Board shall not accept a paper submission regarding a post-charter action.
D. The Board shall make available on its web site instructions regarding eligibility and submission requirements for each kind of post-charter action request.
E. To determine the date on which the Board will approve or disapprove a charter amendment request listed under R7-5-304, the charter holder shall consult the Board’s meeting and submission-deadline schedule, which is posted on the Board’s web site and ASBCS Online.
F. If the Board will consider a post-charter action request at an open meeting, the Board shall notify the charter holder of the date, time, and location of the Board meeting. The charter holder shall attend the Board meeting at which the post-charter action request will be considered.
G. The Board has delegated to staff authority to approve charter amendment requests listed under R7-5-304 when the standards for approval can be applied without the exercise of discretion.

A. At least 18 months before a charter is scheduled to expire, the Board shall provide the charter holder with a renewal application that is customized based on the charter holder’s performance history. The Board shall require a charter holder that does not meet the performance expectations specified in Article 4 to submit more information than a charter holder that does meet the performance expectations.
B. As required under A.R.S. § 15-183(I), a charter holder that intends to seek renewal of the charter shall submit to the Board a renewal application package at least 15 months before the charter is scheduled to expire.
C. As part of the charter renewal process, Board staff shall conduct an academic-systems review site visit, as described in R7-5-506, of the charter holder.
D. The Board shall notify a charter holder of the Board’s decision to renew or deny renewal of the charter at least 12 months before the charter is scheduled to expire.
E. As specified under A.R.S. § 15-183(I), the Board may deny renewal of a charter if the Board determines the charter holder failed to meet or make sufficient progress toward the academic or operational performance expectations specified in Article 4, complete the obligations of the charter, or comply with federal or state law or this Chapter. If the Board denies renewal of a charter, Board staff shall provide written notice to the charter holder that includes the information required under A.R.S. § 41-1092.03(A).
G. A charter holder is eligible to apply for early renewal of the charter if the charter holder:
   1. Submits to the Board a letter of intent to apply for early renewal at least 24 months before the charter is scheduled to expire;
   2. Has operated a school under the charter for at least five years;
   3. Meets the performance expectations specified in Article 4; and
   4. Had no compliance matters within the last three years that required action by the Board or other governmental entity.
H. Within 15 days after receiving a letter of intent to apply for early renewal, Board staff shall review evidence of the charter holder’s eligibility under subsection (G). If Board staff determines the charter holder is eligible to apply for early renewal, the Board shall provide the charter holder with the renewal application referenced in subsection (A).
I. As specified under A.R.S. § 15-183(2), the Board may deny early renewal of a charter if the Board determines the charter holder failed to meet or make sufficient progress toward the academic or operational performance expectations specified in Article 4, complete the obligations of the charter, or comply with federal or state law or this Chapter. If the
Board denies early renewal of a charter. Board staff shall provide written notice to the charter holder that includes the information required under A.R.S. § 41-1092.03(A).

R7-5-303. Charter Transfer Application
A. A charter transfer application may be used to do either of the following:
   1. Transfer sponsorship of a charter to the Board; or
   2. Transfer a charter site that has operated under an existing charter for at least three years to its own charter with the same educational program and financial and operational processes.
B. A charter holder that intends to transfer as specified under subsection (A) shall submit to the Board a letter of intent to transfer.
C. After the Board acknowledges the intent to transfer, the charter holder shall submit to the Board a charter transfer application package.
D. For a transfer to occur on July 1, a charter holder shall submit the letter of intent to transfer by the last business day of November of the prior fiscal year and the transfer application package by the last business day of February of the prior fiscal year.
E. As required under A.R.S. § 41-1073, the Board establishes the following time frames for approving or disapproving a charter transfer:
   1. Administrative review time frame: 15 days;
   2. Substantive review time frame: 60 days; and
   3. Overall time frame: 75 days.

R7-5-304. Charter Amendment Requests
A. The Board shall accept requests for the following charter amendments:
   1. Add or remove a grade level to a charter;
   2. Addition of or change to an Arizona Online Instruction Program of Instruction; as expressly authorized under A.R.S. § 15-183(X), the Board shall charge a non-refundable processing fee of $3,000 for each grade category involved in the charter amendment request;
   3. Change in charter holder entity name;
   4. Change in legal status of the charter holder;
   5. Change of entity that holds the charter;
   6. Change in charter mission;
   7. Increase or decrease the number of annual instructional days;
   8. Change in program instruction including methods of instruction, criteria for promotion, and graduation requirements;
   9. Exception from state procurement requirements;
   10. Exception from the Uniform System of Financial Records for Charter Schools;
   11. Change charter holder governance;
   12. Change the mailing or physical address of the charter holder;
   13. Change charter holder’s representative;
   14. Increase or decrease the number of students the charter holder may serve;
   15. Add a charter school to an existing charter;
   16. Close a charter school under an existing charter;
   17. Change membership of a charter school governing body;
   18. Change the name of a charter school;
   19. Change the mailing or physical address of a charter school;
   20. Increase or decrease the grades served at a particular charter school; and
   21. Transfer of a charter school from the current charter to another existing charter.
B. As required under A.R.S. § 41-1073, the Board establishes the following time frames for approving or disapproving a charter amendment request:
   1. Administrative review time frame: 20 days;
   2. Substantive review time frame: 40 days; and
   3. Overall time frame: 60 days.

ARTICLE 4. AMENDMENT TO A CHARTER MINIMUM PERFORMANCE EXPECTATIONS

R7-5-401. Amendment to a Charter Minimum Academic Performance Expectations
A. The Board shall assess a charter holder’s achievement of the minimum academic performance expectations using student achievement measures, specified in the Academic Performance Framework, that are indicators of academic performance.
   1. The Board may assess a charter holder’s achievement of the minimum academic performance expectations at any time.
   2. The Board shall assess a charter holder’s achievement of the minimum academic performance expectations:
      a. Annually when state assessment data are released for the previous year;
      b. During the five-year-interval review required under A.R.S. § 15-183(I);
c. When considering an expansion request submitted by the charter holder to:
   i. Add a new charter school to an existing charter;
   ii. Add one or more grade levels to a charter;
   iii. Increase the number of students the charter holder may serve;
   iv. Add an Arizona Online Instruction program; or
   v. Replicate an existing charter;

d. When considering a charter contract renewal request submitted by the charter holder;

e. Upon receipt of information that a charter school operated by the charter holder failed to meet the minimum academic performance expectations for three consecutive years;

f. Upon receipt of information that a charter school operated by the charter holder has been assigned a letter grade of “F” by the Department; and

g. When making a decision related to the charter holder’s achievement of the minimum academic performance expectations or compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter.

B. The Board shall annually assign a charter holder an overall academic performance rating that reflects the degree to which the charter holder achieved the minimum academic performance expectations.

C. The Board shall determine a charter holder meets the minimum academic performance expectations if all charter schools operated by the charter holder receive an annual overall academic performance rating of “meets standard,” “above standard,” or “exceeds standard” in the most recent year for which data are available. A charter holder that meets the minimum academic performance expectations may:
   1. Waived from some of the academic performance supervision requirements described in Article 5; and
   2. Entitled to reduced submission requirements:
      a. Regarding requests made to the Board; and
      b. During the five-year-interval review required under A.R.S. § 15-183(I).

D. The Board shall determine a charter holder does not meet the minimum academic performance expectations if one or more of the charter schools operated by the charter holder did not receive an overall academic performance rating of “meets standard,” “above standard,” or “exceeds standard” in the most recent year for which data are available. A charter holder that does not meet the minimum academic performance expectations:
   1. Shall be required to demonstrate sufficient progress towards achieving the minimum academic performance expectations;
   2. May be subject to heightened submission requirements:
      a. Regarding requests made to the Board; and
      b. During the five-year-interval review required under A.R.S. § 15-183(I); and
   3. May be subject to charter oversight as specified in Article 6.

R7-5-402. Minimum Financial Performance Expectations

A. The Board shall assess a charter holder’s achievement of minimum financial performance expectations using data contained in the annual audit required under A.R.S. § 15-914 and conducted according to the standards specified in R7-5-504.

1. The Board may assess a charter holder’s achievement of the minimum financial performance expectations at any time.

2. The Board shall assess a charter holder’s achievement of the minimum financial performance expectations:
   a. When considering an expansion request submitted by the charter holder to:
      i. Add a new charter school to an existing charter,
      ii. Add an Arizona Online Instruction program, or
      iii. Replicate an existing charter;
   b. During the five-year-interval review required under A.R.S. § 15-183(I);
   c. When considering a charter contract renewal request submitted by the charter holder;
   d. Upon receipt of information that a charter school operated by the charter holder failed to meet the minimum academic performance expectations for three consecutive years;
   e. Upon receipt of information that a charter school operated by the charter holder has been assigned a letter grade of “F” by the Department; and
   f. When making a decision related to the charter holder’s achievement of the minimum academic performance expectations or compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter.

B. The Board shall annually assign a charter holder a financial performance rating, based on measures specified in the Financial Performance Framework, which reflects both the charter holder’s near-term financial health and longer-term financial stability.

C. The Board shall determine a charter holder meets the annual financial performance standard if the charter holder receives no measure rated “falls far below standard” and no more than one measure rated “does not meet standard” on the most recent audit conducted under R7-5-504.

D. The Board shall determine a charter holder meets the minimum financial performance expectations if the charter holder:
1. Receives an overall rating of “meets the annual financial performance standard” based on the most recent audit conducted under R7-5-504; or
2. Receives an overall rating of “meets the annual financial performance standard” based on the previous audit and receives an overall rating of “does not meet the annual financial performance standard” on the most recent audit with no measure rated “falls far below standard.”

E. The Board shall determine a charter holder does not meet the minimum financial performance expectations if the charter holder:
1. Receives an overall rating of “does not meet the annual financial performance standard” and one or more measures rated “falls far below standard” on the most recent audit conducted under R7-5-504; or
2. Receives an overall rating of “does not meet the annual financial performance standard” in both of the last two audits conducted under R7-5-504.

F. A charter holder that meets the minimum financial performance expectations may be entitled to reduced submission requirements at the times specified under subsection (A). The Board shall require a charter holder that does not meet the minimum financial performance expectations to submit a financial performance response as specified under R7-5-509 at the times specified in subsections (A)(2)(a)-(e) and may require a charter holder that does not meet the minimum financial performance expectations to submit a financial performance response as specified under R7-5-509 at the times specified in subsection (A)(2)(f).

R7-5-403. Minimum Operational Performance Expectations

A. The Board shall assess a charter holder’s achievement of the minimum operational performance expectations. To avoid duplicative reporting burdens, the Board shall use data collected from a variety of sources that reflect on the charter holder’s compliance with the charter contract, other contractual agreements with the Board, federal and state law, and this Chapter.
1. The Board may assess a charter holder’s achievement of the minimum operational performance expectations at any time.
2. The Board shall assess a charter holder’s achievement of the minimum operational performance expectations:
   a. When considering the following submitted by the charter holder:
      i. An application for a new charter;
      ii. An application to transfer a charter school from an existing charter contract to a separate charter contract;
      iii. A request to change the legal status of the charter holder; or
      iv. A request to change program instruction including methods of instruction, criteria for promotion, or graduation requirements;
   b. When considering an expansion request submitted by the charter holder to:
      i. Add a new charter school to an existing charter;
      ii. Add one or more grade levels to a charter;
      iii. Increase the number of students the charter holder may serve;
      iv. Add an Arizona Online Instruction program, or
      v. Replicate an existing charter;
   c. During the five-year-interval review required under A.R.S. § 15-183(I);
   d. When considering an application for charter renewal submitted by the charter holder;
   e. Upon receipt of information that a charter school operated by the charter holder failed to meet the minimum academic performance expectations for three consecutive years; and
   f. Upon receipt of information that a charter school operated by the charter holder has been assigned a letter grade of “F” by the Department.

B. The Board shall annually assign a charter holder an overall operational performance rating based on the measures specified in the Operational Performance Framework, which reflect the degree to which the charter holder achieved the minimum operational performance expectations. The Board shall make each charter holder’s operational performance dashboard publicly available and post it on ASBCS Online.

C. The Board shall determine a charter holder meets the minimum operational performance standard if the charter holder receives no measure rated “falls far below standard” and no more than five measures rated “does not meet standard” for the evaluated year.

D. The Board shall determine a charter holder meets the minimum operational performance expectations if the charter holder receives an overall rating of “meets the Board’s operational performance standard” in both of the two most recent years for which an overall rating was calculated and has no measure rated “falls far below standard” in the current year.

E. The Board shall determine a charter holder does not meet the minimum operational performance expectations if the charter holder receives an overall rating of “does not meet the Board’s operational performance standard” in at least one of the two most recent years for which an overall rating was calculated or has at least one measure rated “falls far below standard” in the current year.

F. If the Board determines a charter holder does not meet the minimum operational performance expectations, the Board shall consider charter oversight under Article 6.

R7-5-404. Development and Use of Performance Frameworks

A. The Board shall revise the academic, financial, and operational performance frameworks as needed. During the process of revision, the Board shall provide the public with notice and an opportunity to comment on proposed revisions. The
B. The Board shall ensure the academic performance framework includes modifications for non-traditional charter schools, including small charter schools with very low enrollment and those designated by the Department as alternative schools.

C. Use of the academic performance framework is contingent on a charter school’s receipt of an annual achievement profile under A.R.S. § 15-241. The Board shall assign a rating of “no rating” to a charter school that does not provide enough data to make a calculation.

D. If the Department does not timely release annual achievement profiles under A.R.S. § 15-241, rather than assigning a rating of “no rating” to all charter schools, the Board may use the most recent available data for each measure.

ARTICLE 5. AUDITS AND AUDIT CONTRACTS CharTER SUPERVISION

R7-5-501. Audit Guidelines General Supervision, Oversight, and Administrative Responsibility

By July 1 of each year, the Board shall make available to the public at its office and online at its web site, written audit guidelines that provide general guidance on charter school audit requirements, including the deadline for submitting the completed audit to the Board and information that must be included for the audit to be deemed complete.

A. A charter holder shall:

1. Comply with the provisions of its charter, contractual agreements with the Board, and with federal and state laws, at all times, as this Chapter;
2. Meet the minimum performance expectations specified in Article 4; and
3. Notify the Board of any adverse condition that may affect the charter school’s opening or operations.

B. The Board may use shall supervise a charter holder’s compliance with subsection (A) using any of the following means in performing its administrative responsibilities and general supervision and oversight of a charter holder:

1. Oral, written, and electronic communication with:
   a. The authorized charter representative or authorized charter school personnel;
   b. Oral, written, and electronic communication with representatives of federal, state, and local agencies having jurisdiction over the operation of the charter school or having the authority to investigate or adjudicate allegations of misconduct by any member of the charter school’s staff; and
   c. Oral, written, and electronic communication with students, parents, charter school staff, or outside parties regarding any activity or program conducted by or for the charter school or regarding allegations of misconduct by any member of the charter school’s staff;

4. Collection and review of reports, audits, data, records, documents, files, and communication from any source relating to any activity or program conducted by or for the charter school;
3. A site visit as described in R7-5-502;
4. Annual academic performance review as described in R7-5-503;
5. Annual audit and financial performance review as described in R7-5-504 and, if necessary, a financial performance response as described in R7-5-509;
6. A corrective action plan as described in R7-5-506 Operational performance review as described in R7-5-505; and
7. A site visit as described in R7-5-503 Five-year-interval review of academic, financial, and operational performance, as described in R7-5-506.

R7-5-502. Approval of Audit Contracts Site Visits; Records; Notice of Violation

A. In accordance with A.R.S. § 15-914 and Laws 1999, 1st S.S., Ch. 4, § 15, a charter holder shall submit to the Board for approval an audit contract for each audit before the audit begins.

B. The Board shall approve or disapprove an audit contract only for the following reasons:

1. Board knowledge that a person employed by the audit firm has been convicted under a federal or state statute for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty;
2. Failure of the audit firm or supervising certified public accountant to maintain good standing with an accounting industry regulatory body;
3. Failure of or failure of the audit firm to meet generally accepted auditing standards or generally accepted government auditing standards as identified by an accounting industry regulatory body;
4. Failure of the audit firm to receive an unmodified opinion during the audit firm’s most recent peer review or failure of any auditor working on the audit to meet the continuing professional education requirements prescribed by generally accepted government auditing standards;
5. Failure to acknowledge that the audit firm shall adhere to the audit requirements listed in the Board’s audit guidelines;
6. The Board shall provide written notification of approval or disapproval of an audit contract to the charter holder and the audit firm within 10 days of receipt of the audit contract.

C. The Board shall include the cause for disapproval in a notice of disapproval.

E. The Board shall approve the audit contract and notify all parties of the approval.

A. A designee of the Board or Department may conduct a site visit of a charter school to: a review or evaluate the charter school’s financial operations, academic program, or compliance with the provisions of its charter and federal and state
B. A designee of the Board or Department may conduct a site visit to corroborate information submitted to the Board or Department and to gather information, documentation, and testimony that permit the Board to fulfill its oversight function under the law and ensure that the charter school is in compliance with the provisions of its charter and federal and state laws R7-5-501(A).

C. A designee of the Board or Department shall conduct a site visit shall do so during regular operational hours of the charter school or at any other reasonable time.

D. A designee of the Board or Department may conduct either an announced or unannounced site visit.

E. A designee of the Board or Department may conduct an investigation of a charter school in response to concerns raised by students, parents, employees, members of the community or other individuals or groups regarding any activity or program conducted by or for the charter school or regarding allegations of misconduct by any member of the charter school's staff.

F. Upon request by a designee of the Board or Department, a charter holder shall open for inspection all records, documents, and files relating to any activity or program conducted by or for the charter school or the charter holder relating to the charter school.

G. Upon request by a designee of the Board or Department, a charter holder shall provide access to all school facilities.

1. During a site visit, a charter holder shall provide access to classrooms for the purpose of counting students, observing a program of instruction, or documenting individuals providing instruction.
2. In conducting a site visit, the designee of the Board or the Department shall make every effort not to disrupt the classroom environment.

H. The Board or Department shall inform a charter holder in writing of any offense identified during a site visit and shall specify any further action that must be taken required by the charter holder. In determining the appropriate action to take, the Board or Department shall consider the items in R7-5-304(A).

I. The Board shall require a charter holder whose audit has a serious impact finding to appear before the Board for possible disciplinary action under R7-5-304.

R7-5-503. Audit Completeness Determinations

A. Annual Academic Performance Review

1. In accordance with A.R.S. § 15-241, the Board shall:
   a. Calculate an overall academic rating for each charter school sponsored by the Board using the Academic Performance Framework, and
   b. Make the annual overall academic performance dashboard publicly available and post it on ASBCS Online.

2. If the Board determines a charter school does not meet the Board’s minimum academic performance expectations, as defined under R7-5-401(D), the Board shall require the charter school to demonstrate sufficient progress towards achieving the minimum academic performance expectations.

R7-5-504. Review of Complete Audits

A. Annual Audit and Financial Performance Review

1. The Board staff shall review each audit deemed complete.

2. The Board shall send a letter to a charter holder after the audit is reviewed. If the Board identifies an issue in the audit, the Board shall direct the charter holder to address the issue and based on an assessment of the factors in R7-5-302(A), may require the charter holder to submit a corrective action plan.

3. The Board shall require that an audit be complete if it does not include all of the items listed in the Board’s audit guide through the site visit.

4. Upon request by a designee of the Board or Department, a charter holder shall provide access to classrooms for the purpose of counting students, observing a program of instruction, or documenting individuals providing instruction.

5. The Board or Department shall inform a charter holder in writing of any offense identified during a site visit and shall specify any further action that must be taken required by the charter holder. In determining the appropriate action to take, the Board or Department shall consider the items in R7-5-304(A).

6. The Board shall require that a charter holder whose audit does not meet the Board’s minimum academic performance expectations, as defined under R7-5-401(D), the Board shall require the charter holder to demonstrate sufficient progress towards achieving the minimum academic performance expectations.
c. The audit firm violates or fails to meet generally accepted auditing standards or generally accepted government auditing standards as identified by an accounting industry regulatory body;

d. The audit firm receives an opinion of “fail” during the audit firm’s most recent peer review;

e. An auditor scheduled to work on the audit fails to meet the continuing professional education requirements prescribed by generally accepted government auditing standards; or

f. The audit firm fails to agree to adhere to the audit requirements specified in subsection (A).

2. Within 10 days after receiving a copy of an audit contract under subsection (B), the Board shall provide the charter holder and audit firm written notice whether the audit contract is approved.

3. If the Board disapproves an audit contract submitted under subsection (B), the Board shall include the reason for the disapproval in the written notice provided under subsection (B)(2). If the charter holder or audit firm provides documentation to the Board demonstrating the cause for the disapproval no longer exists, Board staff shall approve the audit contract and provide written notice to the charter holder and audit firm.

C. A charter holder or the audit firm that conducts an audit for the charter holder shall submit the annual audit to the Board for a determination whether the audit is complete. Within five days after receiving the annual audit, Board staff shall provide the charter holder and audit firm written notice whether the audit is complete.

D. Board staff shall find an audit is incomplete if it does not comply with all requirements specified under subsection (A) or if the audit is prepared by an audit firm that fails to meet the requirements under subsection (B)(1)(a)-(e). If Board staff finds an audit is incomplete, Board staff shall include the reason for the finding in the notice provided under subsection (C). If the charter holder or audit firm provides documentation to the Board demonstrating the reason for the finding no longer exists, Board staff shall find the annual audit is complete and provide written notice to the charter holder and audit firm.

E. A charter holder that fails to submit timely a complete audit may be subject to charter oversight as specified in Article 6.

F. Board staff shall review each audit deemed complete.

G. Board staff shall send notice to a charter holder after the audit is reviewed unless the Board has been notified the charter holder will not be operating during the next fiscal year. If the Board identifies an issue in the audit, Board staff shall direct the charter holder to address the issue and may require the charter holder to submit a corrective action plan, as described in R7-5-510.

H. If Board staff identifies a serious impact finding in the audit, the charter holder shall be subject to charter oversight as specified in Article 6 unless the charter holder provides credible evidence to the Board that the charter holder’s next audit will find the charter holder in compliance.

I. The Board shall annually calculate a financial performance rating for each charter holder using the Financial Performance Framework and the annual audit submitted to the Board by the charter holder. The Board shall make each charter holder’s financial performance dashboard publicly available and post it on ASBCS Online.

R7-5-505. Operational Performance Review

A. Board staff shall conduct a site visit to a charter school during the charter school’s first year of operation, and thereafter as specified in R7-5-502, to evaluate the charter holder’s compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter.

B. Board staff may conduct a compliance check of a charter holder’s operational performance at any time. The Board shall conduct a compliance check when:

1. The charter holder seeks to amend the charter or makes another request of the Board, or

2. The Board is asked to do so by an outside entity with oversight of the charter holder or a business relationship with the charter holder.

C. Within 10 days after completing the site visit under subsection (A) or a compliance check under subsection (B), Board staff shall provide the charter holder with written notice of any compliance issues identified and specify a deadline for addressing the issues.

D. After receiving the notice provided under subsection (C), the charter holder shall provide the Board with written notice demonstrating that all identified compliance issues have been addressed by the specified deadline.

E. The Board shall require a charter holder that fails to provide the notice required under subsection (D) or fails to demonstrate that all identified compliance issues have been addressed to appear before the Board and:

1. May subject the charter holder’s requests to heightened review,

2. Shall not place the charter holder’s request on a Board agenda, and

3. May subject the charter holder to charter oversight as described in Article 6.

R7-5-506. Five-year-interval Review

A. As required under A.R.S. § 15-183(l)(3), the Board shall review a charter holder at five-year intervals for:

1. Compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter; and


B. Board staff shall provide a charter holder with notice of a five-year-interval review. Board staff shall include in the notice:

1. The information the charter holder is required to submit to the Board,

2. The deadline by which the charter holder shall submit the required information, and

3. The two-week interval during which Board staff will conduct the unscheduled academic-systems-review site visit specified in subsection (F).
The Board shall require a financial performance response, as described under R7-5-509, from a charter holder that does not meet the Board’s minimum financial performance expectations.

A charter holder that fails to submit the information required by the deadline specified in subsection (B) shall appear before the Board and may be subject to charter oversight as described in Article 6.

As part of a five-year-interval review, Board staff shall conduct an unscheduled academic-systems-review site visit to gather evidence regarding the charter holder’s implementation of a comprehensive program of instruction and a method to measure pupil progress toward outcomes required in the charter.

### R7-5-507 Complaints

#### A. To make a complaint regarding a charter holder, a person shall submit to the Board a document through ASBCS Online that:

1. Alleges with particularity the charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter;
2. Includes a statement of the facts on which the allegation of violation is based; and
3. Includes supporting evidence, if available.

#### B. Board staff shall review the complaint to determine whether the complaint is within the Board’s jurisdiction.

1. If Board staff determines the complaint is not within the Board’s jurisdiction but may be within the jurisdiction of another agency, Board staff shall inform the complainant of the agency that has jurisdiction and direct the complainant to file the complaint with the appropriate agency; or
2. If Board staff determines the complaint is within the Board’s jurisdiction, Board staff shall, within five days after receiving the complaint, send a copy to the charter holder complained against.

#### C. A charter holder complained against shall, within 10 days after receiving a copy of the complaint provided under subsection (B)(2), provide a written response to the Board that addresses each allegation, the state of facts, and supporting evidence in the complaint. The charter holder may include evidence of compliance with the response.

#### D. Board staff shall review the complaint and the charter holder’s response to determine whether a violation of the charter, other contractual agreements with the Board, federal or state law, or this Chapter can be substantiated. Board staff shall conduct further investigation if additional information is needed. Board staff may place the charter holder on an agenda for the Board to determine whether the charter holder is in compliance with the charter, other contractual agreements with the Board, federal and state law, and this Chapter.

#### E. Within 10 days after receiving the charter holder’s response under subsection (C), Board staff shall send the complainant a copy of the response and notice of the final action to be taken.

### R7-5-508 Demonstration of Sufficient Progress towards Minimum Academic Performance Expectations

#### A. The Board shall require a charter holder to demonstrate the charter holder is making sufficient progress towards achieving the minimum academic performance expectations if:

1. The Board determines under R7-5-503(D) the charter holder does not meet the minimum academic performance expectations; or
2. A charter school operated by the charter holder is assigned a letter grade of “F” by the Department.

#### B. Board staff shall provide written notice to a charter holder required to demonstrate sufficient progress towards achieving the minimum academic performance expectations. The Board shall ensure the notice includes the following:

1. An explanation of why the charter holder is required to demonstrate sufficient progress towards achieving the minimum academic performance expectations;
2. The indicators and measures in the academic performance framework the charter holder is not meeting;
3. The deadline for meeting the minimum academic performance expectations.

#### C. Within 30 days after issuing overall ratings, the Board shall provide the charter holder with a written evaluation of the charter holder’s progress toward meeting the minimum academic performance expectations and notify the charter holder of the Board’s finding.

#### D. If a charter school operated by a charter holder receives an overall rating of “does not meet” or “falls far below” for three consecutive years, the Board shall conclude the charter holder has failed to demonstrate sufficient progress.

#### E. If the Board concludes a charter holder has failed to demonstrate sufficient progress, the charter holder may be subject to charter oversight as specified in Article 6.

### R7-5-509 Financial Performance Response

#### A. The Board shall require a charter holder to prepare a financial performance response:

1. If the Board determines under R7-5-402(E) the charter holder does not meet the minimum financial performance expectations; and
2. If the charter holder does not meet the minimum financial performance expectations at the times specified in R7-5-402(A)(2)(a)-(e).

#### B. Board staff shall provide written notice to a charter holder that is required to submit a financial performance response. Board staff shall ensure the notice includes the following:

1. Information on how to access the charter holder’s financial performance dashboard, and
2. The deadline for submitting the financial performance response to the Board.
C. For each measure for which a charter holder received a “does not meet standard” or “falls far below standard” during the most recent audited fiscal year presented in the financial performance dashboard and by the deadline specified in subsection (B)(2), the charter holder shall:
   1. Explain why the charter holder failed to meet the measure’s target in the audited fiscal year,
   2. Explain the charter holder’s effort to improve its performance so it is possible to meet the measure’s target in the next fiscal year or a subsequent fiscal year, and
   3. Provide evidence that supports the charter holder’s explanation and analysis under subsections (C)(1) and (2).

D. Within 60 days after receiving a financial performance response or when the five-year interval review is closed out for a financial performance response submitted as part of a five-year interval review, Board staff shall provide the charter holder with written notice that the response is acceptable or not acceptable. Board staff shall find a financial performance response acceptable if it includes the explanations and evidence required under subsection (C).

E. If Board staff finds a financial performance response is not acceptable, the Board shall allow the charter holder to supplement the financial performance response if the charter holder is in a process that requires the financial performance response to be considered at a Board meeting.

F. If the Board allows a charter holder to supplement a financial performance response under subsection (E), Board staff shall:
   1. Include the deadline for submitting the supplemented financial performance response in the notice provided under subsection (D); and
   2. Find the supplemented financial performance response acceptable if it includes the explanations and evidence required under subsection (C).

G. Board staff shall include the supplemented financial performance response and the determination made under subsection (F)(2) in the meeting materials provided to the Board. The supplemented financial performance response and the Board’s final determination shall be posted on ASBCS Online.

H. If a charter holder fails to submit a required financial performance response, the failure shall be noted in the charter holder’s operational performance dashboard posted on ASBCS Online.

R7-5-304.R7-5-510 Corrective Action Plan

A. Upon receipt of information under R7-5-301(B) that a charter holder is not in compliance with the provisions of its charter or federal or state laws, the Board shall consider the following factors in determining whether a corrective action plan (CAP) is required: When the Board receives information that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, Board staff shall require the charter holder to prepare a CAP.

1. The seriousness of the offense;
2. The charter holder’s history of compliance with the provisions of its charter and federal or state laws;
3. The length of time the offense has been occurring; and
4. Any other factors relating to the charter holder’s compliance with the provisions of its charter and federal or state laws.

B. If the Board requires a CAP, it shall make a written request to the charter holder for the submission of a CAP to be implemented to remedy the offense. The request shall include: Board staff shall provide written notice to a charter holder required to prepare a CAP. Board staff shall ensure the written notice includes the following:

1. An explanation of why the charter holder is required to submit a CAP;
2. A description of the offense;
3. A list of the specific criteria to be included in the CAP;
4. A timeline for the submission of the CAP to the Board;
5. A list of any other factors relating to the charter holder’s compliance with the provisions of its charter and federal or state laws;
6. The consequences for failure if the charter holder fails to submit or implement the CAP.

C. The Board shall decide to accept the CAP based on whether the specified criteria stated in the request are included in the CAP. Within 10 days after receiving the CAP, Board staff shall provide written notice to the charter holder that:

1. The Board shall provide written notification to the authorized representative regarding the acceptance or rejection of the CAP. The CAP is completed and implementation is required; or
2. Written notification that the Board rejected the CAP shall include the reason for the rejection, the deadline for submission of the revised CAP, and the consequences for failure to submit a CAP that meets the specified criteria. Additional information is required and the deadline for submitting the additional information to the Board.

D. The Board staff shall monitor, through site visits and review of documentary evidence, the charter holder’s implementation of the approved CAP to ensure until the Board determines the offense is rectified:

1. The charter holder shall demonstrate to the Board through documentation or a site visit that steps have been taken to correct the offense or, in the case of a serious impact finding, that the charter holder is currently in compliance.
2. The Board shall consider possible disciplinary action under R7-5-304 against the charter holder if the charter holder fails to implement the CAP and rectify the offense.

E. If a charter holder fails to submit a required CAP, fails to submit additional information required under subsection (C)(2), or fails to implement the CAP timely, the charter holder may be subject to charter oversight as specified in Article 6.
ARTICLE 3. ARTICLE 6. CHARTER OVERSIGHT

R7-5-304. R5-5-601. Disciplinary Action
Charter Oversight: General Provisions

A. If the Board may discipline determines a charter holder for violation of is not in compliance with its charter, other contractual agreements with the Board, or federal or state laws, or this Chapter, the Board shall provide notice to and may impose charter oversight on the charter holder.

B. The Board shall provide the charter holder with at least 72-hours’ notice of the date, time, and location of the meeting at which the Board will decide whether to impose charter oversight. The Board shall include in the notice the purpose of the meeting and why the Board is considering imposing charter oversight.

C. In determining the appropriate disciplinary charter oversight action to take, the Board shall consider the following, as applicable:
   1. Threat to the health or safety of children;
   2. Whether the charter holder’s historical compliance record indicates repeated or multiple breaches of the provisions of its charter, other contractual agreements with the Board, or federal or state laws, or this Chapter;
   3. Whether the charter holder has failed to meet the minimum academic needs of the children performance expectations specified under R7-5-401;
   4. Length of time the offense has been occurring;
   5. The charter holder’s compliance with and response to Board investigation in by providing necessary information and documentation within requested time-frames;
   6. Whether there has been a misuse of funds; and
   7. Any other factor that has a bearing on the charter holder’s ability and willingness to operate in compliance with the provisions comply with its charter, other contractual agreements with the Board, and federal and state laws, and this Chapter.

D. The Board shall take disciplinary action against a charter holder based on the Board’s assessment of the factors listed in subsection (A). Disciplinary action may Charter oversight actions available to the Board include, but are not limited to any of the following:
   1.requiring a corrective action plan as described in R7-5-302 imposing a civil penalty, as authorized under A.R.S. § 15-185 and described under R7-5-604;
   2. Requesting the Department to withhold up to 10 percent of the charter school’s holder’s monthly state aid in accordance with as authorized under A.R.S. § 15-185(4) and described under R7-5-605 and requiring the charter holder to submit a CAP as described under R7-5-510. Upon proof of corrected deficiencies and that the charter holder is in compliance, the Board shall request the Department to restore the full amount of state aid payments to the charter school;
   3. Entering into a consent agreement with the charter holder as described under R7-5-606; for the resolution of the non-compliance. The Board shall ensure that the consent agreement:
      a. Describes each offense;
      b. Stipulates the facts agreed to by the Board and the charter holder;
      c. Specifies the actions the charter holder must take to demonstrate compliance and avoid further disciplinary action;
      d. Provides a timeline for the charter holder to complete the actions specified in the consent agreement;
      e. Stipulates that if the charter holder fails to comply with the terms and conditions of the consent agreement, the Board may, after giving the number of days notice specified in the consent agreement, hold a hearing at which the Board receives information to determine whether evidence exists that the charter holder has failed to comply with the consent agreement. If the Board determines that the charter holder has breached the consent agreement, the Board may revoke the charter holder’s charter; and
      f. Is approved by the Board and the charter holder and signed by the Board president or designee and the authorized representative;
   4. Issuing a notice of intent to revoke the charter in accordance with as authorized under A.R.S. § 15-183(4) and described under R7-5-607.
   5. Revoking the charter in accordance with as authorized under A.R.S. § 15-183(4) and described under R7-5-607.

R7-5-602. Oversight of Charter Schools Assigned a Letter Grade of “F” by the Department

A. If the Department notifies the Board, as required under A.R.S. § 15-241, that a charter school has been assigned a letter grade of “F,” the Board shall require the charter holder to appear before the Board for consideration of whether the Board will issue a notice of intent to revoke the charter under R7-5-607 or restore the charter to acceptable performance through a consent agreement under R7-5-606.

B. Upon receipt of the Department’s notice under subsection (A), the Board shall provide written notice to the charter holder that the school has been designated a failing school.

C. Within 30 days after receipt of the notice provided under subsection (B), the charter holder shall:
   1. As required under A.R.S. § 15-241, provide written notice to the parents or guardians of all students attending the school that the Department has assigned the school a letter grade of “F” because the school is demonstrating a fail-
ing level of academic performance. The charter holder shall provide to the Board a copy of the notice required under this subsection;
2. Provide the Board with a list of the names and mailing addresses of the parents or guardians of all students attending the school;
3. Ensure the charter school’s public communications that make a statement concerning the charter school’s academic performance, including the charter school’s web site and promotional materials, accurately describe the charter school’s most current annual achievement profile assigned by the Department;
4. Demonstrate sufficient progress as described under R7-5-508; and
5. If notified the charter holder does not meet the minimum financial performance expectations, submit a financial performance response as described under R7-5-509.

D. Board staff shall evaluate the demonstration of sufficient progress and, if required, the financial performance response as specified under R7-5-508 and R7-5-509.

E. The Board shall provide the charter holder with at least 72 hours written notice of the date, time, and location of the public meeting at which the Board will consider whether to restore the charter to acceptable performance or revoke the charter. In making this decision, the Board shall consider all relevant factors including:
1. Whether the charter holder complied fully with the provisions of subsection (C);
2. Whether the charter holder failed to meet the minimum academic performance expectations based on student achievement measures specified in the Academic Performance Framework;
3. Whether the charter holder is able to demonstrate, under R7-5-508, sufficient progress toward achieving the minimum academic performance expectations;
4. Whether the charter holder meets the minimum financial performance expectations;
5. Whether the charter holder timely complied with Board requests for information and documents;
6. Whether the charter holder’s historical compliance record indicates repeated or multiple breaches of its charter, other contractual agreements with the Board, federal or state law, or this Chapter; and
7. Any other factor the Board determines has a bearing on the charter holder’s ability or willingness to comply with the provisions of its charter, other contractual agreements with the Board, federal and state law, and this Chapter.

F. If the Board decides to restore the charter to acceptable performance, the Board shall enter into a consent agreement with the charter holder as provided under R7-5-606. If the Board decides to revoke the charter, the Board shall issue a notice of intent to revoke the charter as provided under R7-5-607.

R7-5-603. Oversight of Charter Schools Assigned a Letter Grade of “D” by the Department
A. Within 30 days after the Department notifies a charter holder under A.R.S. § 15-241 that a charter school operated by the charter holder has been assigned a letter grade of “D,” the charter holder shall:
1. Comply fully with A.R.S. § 15-241 by providing written notice to the parents or guardians of all students attending the school. The charter holder shall include the following in the notice:
   a. The Department has assigned the charter school a letter grade of “D” because the charter school is demonstrating a below average level of academic performance;
   b. The charter holder is required under A.R.S. § 15-241.02 to prepare an improvement plan within 90 days after the charter school was assigned a letter grade of “D”; and
   c. The charter holder is required to present the improvement plan to the Board at a public meeting;
2. Provide the Board a copy of the notice required under subsection (A)(1);
3. Provide the Board with a list of the names and mailing addresses of the parents or guardians of all students attending the school; and
4. Ensure the charter school’s public communications that make a statement concerning the charter school’s academic performance, including the charter school’s web site and promotional materials, accurately describe the charter school’s most current academic performance rating assigned by the Department.
B. The Board shall require a charter holder that fails to comply fully with subsection (A) to appear before the Board for consideration of the charter holder’s noncompliance and may subject the charter holder to additional charter oversight.
C. Under A.R.S. § 15-241.02, the Board is required to revoke the charter of a charter school if the Board determines the improvement plan required under subsection (A)(1)(b) was not properly implemented.

R7-5-604. Civil Penalty for Fingerprinting Violation
A. If the Board determines a charter holder has failed to comply with the statutory fingerprinting requirements in A.R.S. §§ 15-183 and 15-512, the Board may impose a civil penalty of $1,000 per occurrence as provided under A.R.S. § 15-185.
B. After making the determination under subsection (A), the Board shall provide the charter holder with written notice of noncompliance with the statutory fingerprinting requirements and the date of the Board meeting at which the Board will consider whether to impose a civil penalty under A.R.S. § 15-185.
C. Within 30 days after a civil penalty is imposed under subsection (B), the charter holder may submit to the Board a written appeal of the civil penalty. The charter holder shall include the following information in the written appeal:
1. Name and address of the appellant;
2. Concise statement of the reason for the appeal;
3. Relief sought; and
4. If the appellant will be represented by an attorney, the attorney’s name, address, and telephone number.
The Board shall hold a hearing to consider the appeal within 60 days after receiving the appeal.

R7-5-605. Withholding State Funds

A. Under A.R.S. § 15-185, if the Board determines at a public meeting that a charter holder is not in compliance with its charter or federal or state law, the Board may request the Department to withhold up to 10 percent of the charter holder’s monthly apportionment of state aid.

B. If the Board decides to request that the Department withhold part of the charter holder’s monthly apportionment of state aid, the Board shall provide written notice to the charter holder. The Board shall include the following in the notice:
   1. The reason the withholding is being imposed,
   2. The percentage of the charter holder’s monthly apportionment of state aid to be withheld,
   3. The date on which the withholding will begin, and
   4. Actions required by the charter holder before the full amount of state aid is restored.

C. If a percentage of the charter holder’s monthly apportionment of state aid is withheld for six months and the charter holder has not completed the actions required under subsection (B)(4), the Board shall consider the charter holder’s noncompliance and may subject the charter holder to additional charter oversight including issuing a notice of intent to revoke under R7-5-607.

D. If a percentage of the charter holder’s monthly apportionment of state aid is withheld for failure to submit an audit for two months, the Board shall consider the charter holder’s noncompliance and may subject the charter holder to additional charter oversight including issuing a notice of intent to revoke under R7-5-607.

E. When the Board determines the charter holder is in compliance with its charter and federal and state law, the Board shall request that the Department restore the full amount of state aid to the charter holder.

R7-5-606. Consent Agreement

A. If the Board determines that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board may enter into a consent agreement with the charter holder to resolve the noncompliance.

B. The Board shall include the following in a consent agreement:
   1. The reason for the consent agreement;
   2. The facts and conditions to which the Board and charter holder agreed;
   3. The actions the charter holder must take to demonstrate compliance and avoid further charter oversight;
   4. The time within which the charter holder is to complete the actions specified under subsection (B)(3); and
   5. After approval by both the Board and charter holder, the signatures of both the Board president and charter representative.

R7-5-607. Revocation

A. If the Board determines that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board may issue a written notice of intent to revoke the charter as authorized under A.R.S. § 15-183.

B. When a charter holder receives a notice of intent to revoke, the charter holder shall:
   1. Within 48 hours after receiving the notice of intent to revoke, provide written notice to all staff and the parents or guardians of all students attending the school of the following:
      a. A notice of intent to revoke has been received,
      b. The notice of intent to revoke may be inspected at the charter school location, and
      c. The date, time, and location of the hearing set with the Office of Administrative Hearings; and
   2. Within 20 days after receiving the notice of intent to revoke, provide the Board with:
      a. A copy of the notice required under subsection (B)(1), and
      b. A list of the names and mailing addresses of the parents or guardians of all students attending the school.

C. Both the Board and charter holder shall appear for an administrative hearing before an administrative law judge at the Office of Administrative Hearings on the date provided in the notice of intent to revoke.

D. After the administrative hearing under subsection (C) and receipt of the decision of the administrative law judge, the Board shall hold a public meeting at which the Board shall:
   1. Decide whether to accept, reject, or modify the decision of the administrative law judge; and
   2. Take action on the charter.
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 the rules. 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

[R16-221]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
   R2-8-126 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)

3. The effective date for the rules:
   December 3, 2016
   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 Docket Opening: 21 A.A.R. 1834, September 11, 2015
   Notice of Proposed Rulemaking: 21 A.A.R. 2281, October 9, 2015
   Notice of Substantive Policy Statement: 22 A.A.R. 707, April 1, 2016

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Jessica A.R. Thomas, Rules Writer
   Address: State Retirement System
               3300 N. Central Ave., Suite 1400
               Phoenix, AZ 85012-0250
   Telephone: (602) 240-2039
   E-mail: JessicaT@azarsrs.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
   R2-8-126 provides notice to members regarding what type of annuity the member may elect at retirement based on age and/or dollar amount. However, the ASRS will amend subsections (F), (H), (I) and (J) of this rule to better clarify which annuity options are applicable only to retirees with an original retirement date on or after the effective date.

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date of those provisions. These amendments are necessary to improve the clarity and consistency of the rule as discussed in the Economic Impact Statement.

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:**
   
   A summary of the rules promulgated by this agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies current annuity options without imposing any additional requirements on the public. Clarifying the applicability of R2-8-126(I) and (J), as well as amending subsections (F) and (H) while adopting a new subsection (K) will increase understandability of the annuity options available to a member at retirement and will ensure ASRS members and their spouses have notice regarding those options; thus, reducing the regulatory burden and the economic impact.

10. **A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
   
   There were no changes between the proposed rulemaking and the final rulemaking.

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 16, 2016.

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:**
   
   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:
   
   26 U.S.C. 401(a)(9), and corresponding Treasury Regulations: §§ 1.401(a)(9)-1 (Q&A-2(d)); 1.401(a)(9)-9 (Q&A-2); 1-401(a)(9)-6 (Q&A-2) specifically apply to this rulemaking. These federal regulations indicate that a member may participate in certain types of annuity options at certain ages, regardless whether the contingent annuitant is a current or former spouse. With the changes completed in this rulemaking, R2-8-126 will not be more stringent than these federal laws.
   
   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

R2-8-126. Calculating Optional Forms of Benefits

A. For the purposes of this Section, the following definitions apply, unless stated otherwise:
1. **“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.
2. **“Original retirement date”** means:
   a. The date a member retires from the ASRS for the first time; or
   b. The date a member retires from the ASRS after returning to active membership for 60 consecutive months or more pursuant to A.R.S. § 38-766(C).

B. An individual who is 104 years of age or older at the time of retirement is not eligible to select an option of life annuity with a term certain.

C. An individual who is 93 years of age or older at the time of retirement is not eligible to select the options of life annuity with ten years certain or life annuity with 15 years certain.

D. An individual who is 85 years of age or older at the time of retirement is not eligible to select the option of life annuity with 15 years certain.

E. As authorized under A.R.S. § 38-764(F), if the life annuity of any Plan member is less than a monthly amount determined by the Board, the ASRS shall not pay the annuity. Instead, the ASRS shall make a lump sum payment in the amount determined by using appropriate actuarial assumptions.

F. The ASRS shall calculate a member’s or beneficiary’s benefits, based on the attained age of the member or beneficiary, determined in years and full months, as of:
   1. The effective date of the benefit payment member’s retirement; or
   2. The date of the member’s death, if the beneficiary is eligible to elect the survivor benefit as monthly income for life pursuant to A.R.S. § 38-762(C).

G. Before the ASRS applies the calculation for an optional form of retirement benefit provided in A.R.S. § 38-760, the ASRS shall add any prior service credit benefit that is payable to a member applicable 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. A member who is ten or more years and one day, or more, older than the member’s non-spousal contingent annuitant is not eligible to participate in a 100% joint-and-survivor option. A member who is 24 or more years and one day, or more, older than the member’s non-spousal contingent annuitant is not eligible to participate in a 66 2/3% joint-and-survivor option.

I. Notwithstanding subsection (H), a member who is ten or more years and one day, or more, older than the member’s ex-spouse contingent annuitant is eligible to participate in a 100% joint-and-survivor option, if:
   1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
   2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member’s account.

J. Notwithstanding subsection (H), a member who is 24 or more years and one day, or more, older than the member’s ex-spouse contingent annuitant is eligible to participate in a 66 2/3% joint-and-survivor option, if:
   1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
   2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member’s account.

K. Notwithstanding subsection (F), for purposes of determining whether a member is eligible to participate in a joint-and-survivor option, the ASRS shall calculate the difference in a member’s age and the contingent annuitant’s age based on the birthdates of the member and the contingent annuitant.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

PREAMBLE

1. Article, Part, or Section Affected (as applicable) | Rulemaking Action
   R4-26-101 | Amend
   R4-26-108 | 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. §§ 32-2063(A)(9) and (12)
   Implementing statute: A.R.S. §§ 32-2061(14), 32-2071(F)(6) and (G)(5), 32-2073, and 32-2074 (version 2)

3. The effective date for the rules:
   October 4, 2016
   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):
      A.R.S. § 41-1032(A)(3) authorizes an immediate effective date if needed to comply with a deadline in an amendment to the Board’s governing statutes and the need for an immediate effective date was not created by Board delay or inaction.
      A.R.S. § 32-2063(A)(12) instructed the Board to make rules regarding telepractice on or before June 30, 2016. An immediate effective date is needed to enable the Board to have the required rules in effect as soon as possible. Failure to comply with the June 30, 2016 deadline was not due to Board delay or inaction.
      The Board received an exemption from EO2015-01 on June 1, 2015. The Board immediately began working with the State Procurement Office to obtain the services of a rule writer. Because the amount appropriated for rule-writing services exceeded the signature authority of the Board’s executive director, SPO handled the procurement process. The SPO process failed to produce a rule writer the Board believed would meet its needs. The Board worked with SPO to amend the process and succeeded in obtaining the services of a rule writer in November 2015. The rule writer’s first invoice entry for this rulemaking was made on November 17, 2015. The procurement process caused a five-month delay in the Board’s ability to comply with A.R.S. § 32-2063(A)(12). The Board has made timely progress on this rulemaking since obtaining the services of a rule writer.
   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: 22 A.A.R. 1109, May 13, 2016

5. The agency's contact person who can answer questions about the rulemaking:
   Name: Dr. Cindy Olvey, Executive Director
   Address: Board of Psychologist Examiners
            1400 W. Washington, Suite 240
            Phoenix, AZ 85007
   Telephone: (602) 542-8162
   Fax: (602) 542-8279
   E-mail: Cindy.Olvey@psychboard.az.gov
   Web site: https://psychboard.az.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
   In 2014, the legislature made several important changes to the Board’s statutes (See Laws 2014, Chapter 258). The changes include allowing psychological services and supervision to be provided by telepractice, establishing a temporary license, and amending the biennial license renewal so half of all licenses are renewed each year rather than
all in one year and so licenses are renewed throughout a year rather than all during one month. Conforming changes are made to rules dealing with definitions and fees.

The Board amended R4-26-203.03 to further clarify who may reapply for licensure and who must apply anew; R4-26-206 to align provisions regarding reinstatement from inactive to active status with the change to biennial renewal; and R4-26-310 to clarify disciplinary supervision and practice monitoring.

In a rulemaking that went into effect on January 30, 2016, the Board amended many of its rules to make changes identified as needed in a five-year-review report, make the rules consistent with Board practice, and make the language clear, concise, and understandable. In this rulemaking, the Board furthers amends some of the rules to correct minor errors.

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 June 1, 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 did not review or 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:

Being able to provide psychological services and supervision by telepractice and able to obtain a temporary license will have economic impact for those who are in position to take advantage of the new statutory provisions. However, the economic benefit results from legislative action rather than from these rules. The rules establish minimal requirements for working by telepractice and clarify some of the statutory requirements for obtaining a temporary license.

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

To clarify the terms “supervision” and “practice monitor,” as used in R4-26-310, definitions were added to R4-26-101.

In R4-26-205(H)(2), the fee listed as “no change” in the proposed rulemaking was for delinquent compliance with the continuing education requirement. This is incorrect. The correct fee is for reinstatement of an active or inactive license. Both of these fees are for the same amount ($200) so relabeling the fee correctly is not a substantial change.

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

No one attended an oral proceeding regarding the rules on July 26, 2016. A written comment was received from ERIC—the ERISA Industry Committee. ERIC is a national association that advocates for the employee benefit and compensation interests of large employers. The comment did not specifically address the proposed rulemaking. Rather, it made general recommendations regarding regulation of telehealth.

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:

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 new temporary license in R4-26-203.02 and the biennial license renewal in R4-26-205 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals 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:

There are numerous federal laws that apply to health care practitioners such as psychologists. These include the Affordable Care Act, Medicare and Medicaid, and HIPAA. However, none of these laws is directly applicable to the subject matter of these rules and 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:

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:

None
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:

No rule in the rule package was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section
R4-26-101. Definitions
R4-26-108. Fees and Charges
R4-26-109. Repealed General Provisions Regarding Telepractice
R4-26-110. Repealed Providing Psychological Service by Telepractice
R4-26-111. Reserved Providing Supervision through Telepractice

ARTICLE 2. LICENSURE

Section
R4-26-203.03. Reapplied for License; Applying Anew
R4-26-203.04. Temporary License under A.R.S. § 32-2073(B)
R4-26-205. Renewal of License
R4-26-206. Reinstatement of License from Inactive to Active Status; Cancellation of License
R4-26-207. Continuing Education
R4-26-208. Time Frames for Processing Applications
R4-26-210. Supervised Professional Experience

ARTICLE 3. REGULATION

Section
R4-26-304. Representation before the Board by Attorney Not Admitted to State Bar of Arizona
R4-26-310. Disciplinary Supervision; Practice Monitor

ARTICLE 1. GENERAL PROVISIONS

R4-26-101. Definitions
A. The definitions in A.R.S. § 32-2061 apply to this Chapter.
B. Additionally, in this Chapter:
   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
     a. No change
     b. No change
     c. No change
     d. No change
        i. No change
        ii. No change
        iii. No change
        iv. No change
        v. No change
        vi. No change
        vii. No change
  12. No change
  13. No change
14. No change
15. No change
16. No change
17. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
18. No change
19. No change
20. No change
21. No change
22. “License period” means:
   a. For a licensee who holds an odd-numbered license, the two years between May 1, the first day of the month
      after the licensee’s birth month of one odd-numbered year and April 30, the last day of the licensee’s birth
      month of the next odd-numbered year; and
   b. For a licensee who holds an even-numbered license, the two years between the first day of the month after the
      licensee’s birth month of one even-numbered year and the last day of the licensee’s birth month of the next
      even-numbered year.
23. No change
24. No change
25. “Practice monitor,” as used in R4-26-310, means a Board-approved licensed psychologist who monitors or oversees
    the remediation of the practice of another psychologist as part of a disciplinary process.
25. No change
26. No change
27. No change
28. No change
29. No change
30. No change
31. “Renewal year” means:
   a. Each odd-numbered year for a licensee who holds an odd-numbered license, and
   b. Each even-numbered year for a licensee who holds an even-numbered license.
32. No change
33. No change
34. No change
35. No change
36. “Supervision,” as used in R4-26-310, means review and oversight of the professional work of a psychologist by a
    Board-approved licensed psychologist as part of a disciplinary process.
34. No change
37. No change
38. No change
   a. No change
   b. No change
   c. No change
39. No change

R4-26-108. Fees and Charges
A. As specifically authorized by A.R.S. § 32-2067(A), the Board establishes and shall collect the following fees:
   1. Application for an active license to practice psychology: $350;
   2. Application for a temporary license under A.R.S. § 32-2073(B): $200;
   3. Reapplication for an active license: $200;
   4. Initial issuance of an initial active or temporary license (prorated, as applicable): $500;
   5. Duplicate license: $25;
   6. Biennial renewal of an active license: $500;
   7. Biennial renewal of an inactive license: $85;
   8. Reinstatement of an active or inactive license: $200; and
B. No change
   1. No change
   2. No change
   3. No change
   4. No change

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Before providing psychological service by telepractice, a licensee shall take all reasonable steps to ensure the confidentiality of the client or patient. Confidentiality means that the client or patient’s personal information will not be disclosed unless:

A. The client or patient consents to the disclosure;
B. The disclosure is necessary to provide emergency treatment or services to the client or patient;
C. The disclosure is required by law; or
D. The disclosure is necessary to prevent or lessen a credible threat of serious harm to the client or patient or to another person.

If a licensee does not provide psychological service by telepractice to a client or patient, the provisions of this Section do not apply to electronic communications with the client or patient regarding:

1. Scheduling an appointment, billing, establishing benefits, or determining eligibility for services; and
2. Checking the welfare of the client or patient in accord with reasonable professional judgment.

A licensee who provides psychological service or supervision by telepractice shall maintain competence in use of telepractice that conforms to prevailing standards of scientific and professional knowledge. A licensee who provides psychological service or supervision by telepractice shall maintain competence in use of telepractice through continuing education, consultation, or other procedures designed to address changing technology used in telepractice.

When and how the licensee will respond to routine electronic communications;

The type of secure electronic technology the licensee will use to communicate with the client or patient;

The manner in which the licensee will store the electronic communication between the licensee and the client or patient;

The manner in which the licensee will ensure the client or patient’s electronic communications are received only by the licensee or supervisee;

Limitations and innovative nature of using technology to provide psychological service;

Inherent confidentiality risk resulting from use of technology;

Potential risk of technology failure that disrupts provision of psychological service and how to re-establish communication if disruption occurs;

When and how the licensee will respond to routine electronic communications;

The circumstances under which the licensee and client or patient will use an alternative means of communication.

A licensee shall not provide psychological service by telepractice unless both conditions of the risk analysis conducted under subsection (A) are met.
R4-26-111. **Reserved Providing Supervision through Telepractice**

**A.** As specified under A.R.S. § 32-2071(F) and (G), a licensee who provides in-person individual supervision shall ensure that:

1. No more than 50 percent of the supervision is provided through telepractice; and
2. Supervision provided through telepractice is conducted using secure, confidential, real-time visual telecommunication technology.

**B.** Before providing supervision by telepractice, a licensee who is in compliance with R4-26-109 shall conduct a risk analysis as clinically indicated and document whether providing supervision by telepractice:

1. Is appropriate for the issue presented by the supervisee’s client or patient involved in the supervisory process,
2. Is consistent with the supervisee’s knowledge and skill regarding use of the technology involved in providing supervision by telepractice, and
3. Is in the best interest of both the supervisee and the supervisee’s client or patient involved in the supervisory process.

**C.** A licensee shall not provide supervision by telepractice unless all conditions of the risk analysis conducted under subsection (B) are met.

**D.** Before providing supervision by telepractice, a licensee shall:

1. Enter a written agreement with the supervisee, using language that is clear and understandable and consistent with accepted professional and legal requirements. The licensee shall ensure the written agreement addresses the following and a copy is provided to the supervisee:
   a. The manner in which the licensee will identify the supervisee before each supervisory session that does not involve video;
   b. Limitations and innovative nature of using technology to provide supervision;
   c. Potential risk of technology failure that disrupts provision of supervision and how to re-establish communication if disruption occurs;
   d. When and how the licensee will respond to routine electronic communications from the supervisee;
   e. The circumstances under which the licensee and supervisee will use an alternative means of communication; and
   f. The type of secure electronic technology the licensee will use to communicate with the supervisee;
2. Obtain information about an alternative means of contacting the supervisee; and
3. Provide the supervisee with information about an alternative means of contacting the licensee.

**ARTICLE 2. LICENSURE**

R4-26-203.03. Reapplication for License; Applying Anew

**A.** No change

**B.** No change

**C.** No change

**D.** No change

1. No change

2. An individual who was permitted by the Board to withdraw an application submitted under R4-26-203 or R4-26-203.01 before the Board acted on the application, and
3. An individual whose application submitted under R4-26-203 or R4-26-203.01 was administratively closed by the Board under R4-26-208(H) more than one year before another application is submitted, and
4. An individual whose license was revoked under A.R.S. § 32-2081(N)(1),
5. An individual whose license expired under A.R.S. § 32-2074, and
6. An individual whose license was cancelled under A.R.S. § 32-2074; and
R-4-26-203-04. Temporary License under A.R.S. § 32-2073(B)

A. To be eligible to be issued a temporary license under A.R.S. § 32-2073(B), an individual shall:
   1. Have completed the educational requirements specified in A.R.S. § 32-2071(A) through (C);
   2. Have completed 1,500 hours of supervised professional experience as described in A.R.S. § 32-2071(F); and
   3. Be participating in a supervised postdoctoral professional experience as described in A.R.S. § 32-2071(G).

B. An applicant seeking a temporary license under A.R.S. § 32-2073(B), shall submit an application packet to the Board that includes:
   1. The application form required under R-4-26-203 and provide all required information except that specified in R-4-26-203(C)(3), (5), and (7); and
   2. The written training plan required under A.R.S. § 32-2071(G)(7) from the entity at which the supervised postdoctoral professional experience is occurring that includes at least the following:
      a. Goal and content of each training experience,
      b. Expectations regarding the nature, quality, and quantity of work to be done by the supervisee during the supervised postdoctoral professional experience,
      c. Methods of evaluating the supervisee and the supervised postdoctoral professional experience,
      d. Total number of hours to be accrued during the supervised postdoctoral professional experience,
      e. Total number of face-to-face contact hours the supervisee is to have with clients or patients during the supervised postdoctoral professional experience,
      f. Total number of hours of supervision the supervisee is to receive during the supervised postdoctoral professional experience,
      g. Qualifications of all individuals who provide supervision during the supervised postdoctoral professional experience including documentation that each is qualified under the standards at A.R.S. § 32-2071(G), and
      h. Acknowledgement that ethics training is included in the training experience.

C. An individual issued a temporary license under A.R.S. § 32-2073(B) shall practice psychology only under supervision.

D. A temporary license issued under A.R.S. § 32-2073(B) is valid for 36 months and is not renewable. If the Board denies an active license under R-4-26-203 to the holder of a temporary license issued under A.R.S. § 32-2073(B), the temporary license terminates at the time of license denial.

E. The holder of a temporary license issued under A.R.S. § 32-2073(B) shall:
   1. Comply fully with all provisions of A.R.S. Title 32, Chapter 19.1, and this Chapter;
   2. Not practice psychology outside the postdoctoral experience specified in the written training plan required under subsection (B)(2) and
   3. Submit to the Board any modification to the written training plan required under subsection (B)(2) within 10 days after the effective date of the modification.

R-4-26-205. Renewal of License

A. Beginning May 1, 2017, a license issued by the Board, whether active or inactive, expires on April 30 of every odd-numbered year unless renewed.

B. The Board considers a license renewal application packet timely submitted if delivered or mailed to the Board’s office and date stamped or postmarked on or before April 30 of the odd numbered year in which the license expires the last day of a licensee’s birth month during the licensee’s renewal year.

C. No change
   1. 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
k. No change

2. No change

3. No change

4. No change
   a. No change
   b. No change
c. No change
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5. 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
   k. No change
   l. No change
   m. No change
   n. No change
   o. No change
   p. No change
   q. No change

6. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change

7. No change
8. No change

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

E. No change

F. Under A.R.S. § 32-2074(B)(C), the license of a licensee who fails to submit a renewal application, including the information about continuing education completed, on or before April 30 of an odd-numbered year the last day of the licensee’s birth month during the licensee’s renewal year expires and the licensee shall immediately stop practicing psychology.

G. A psychologist whose license expires under subsection (F) may have the license reinstated by submitting the following to the Board on or before June 30 of the year in which the license expired within two months after the last day of the licensee’s birth month during the licensee’s renewal year:
   1. No change
   2. No change

H. A psychologist whose license expires under subsection (F) and who fails to have the license reinstated under subsection (G) may have the license reinstated by:
   1. Complying with subsections (G)(1) and (2) on or before the following April 30th subsection (G) within one year after the last day of the licensee’s birth month during the licensee’s renewal year, and
   2. Paying the delinquent compliance fee for reinstatement of an active or inactive license as specified in R4-26-108(A)(7).

I. No change
J. No change

R4-26-206. Reinstatement of License from Inactive to Active Status; Cancellation of License

A. No change

B. A psychologist who is on inactive status for at least two years may reinstate the license to active status by presenting to the Board documentation of completion of at least 40 hours of continuing education that meets the standards in R4-26-207. A psychologist who is on inactive status for less than two years may reinstate the license to active status by presenting to the Board documentation of completion of a prorated amount of continuing education. To calculate the prorated amount of continuing education hours required, the Board shall multiply 1.67 by the number of months from the date of inactive status until the date the application for reinstatement is received by the Board. For every six months of inactive status, the Board shall require one hour of continuing education in:
   1. Ethics, as specified under R4-26-207(B)(1); and
   2. Domestic violence, intimate partner abuse, child abuse, or abuse of vulnerable adults, as specified under R4-26-207(B)(2).
A licensee shall ensure the continuing education hours obtained include at least four hours in each of the following:

1. Professional ethics; and
2. Domestic violence, intimate partner abuse, child abuse, or abuse of vulnerable adults. The topic of bullying satisfies the requirement for child abuse.

B. During the license period in which an individual is initially licensed, the Board shall pro-rate the number of continuing education hours, including a pro-rated number of hours addressing ethics, domestic violence, intimate partner abuse, abuse of vulnerable adults, child abuse, and bullying that the new licensee must complete during the initial license period. To calculate the number of continuing education hours that a new licensee must obtain, the Board shall divide the 40 hours of continuing education required in a license period by 24 and multiply the quotient by the number of whole months from the date of initial licensure until the end of the license period. To determine the number of ethics hours required during the first license period, the license shall complete one hour of ethics for every six months from the month of license issuance to the end of the license period. For every six months from the month of license issuance to the end of the license period, the Board shall require one hour of continuing education in:

1. Ethics, as specified under subsection (B)(1); and
2. Domestic violence, intimate partner abuse, child abuse, or abuse of vulnerable adults, as specified under subsection (B)(2).

C. A licensee shall ensure that the continuing education hours obtained include at least four hours in each of the following:

1. Professional ethics; and
2. Domestic violence, intimate partner abuse, child abuse, or abuse of vulnerable adults. The topic of bullying satisfies the requirement for child abuse.

D. If the standards in subsection (F) are met, the Board shall accept the following for continuing education hours. In completing the continuing education requirement, a licensee shall ensure that hours are obtained from participating in at least two of the following:

1. Post-doctoral study sponsored by a university or college that is regionally accredited under A.R.S. § 32-2071(A)(1) and provides a graduate-level degree program;
2. A course, seminar, workshop, or home study for which a certificate of attendance or completion is provided;
3. A continuing education program offered by a national, international, regional, or state association, society, board, or continuing education provider;
4. Teaching a graduate-level course in applied psychology at a university or college that is regionally accredited under A.R.S. § 32-2071(A)(1). A licensee who teaches a graduate-level course in applied psychology receives the same number of continuing education hours as number of classroom hours for those who take the graduate-level course;
5. Organizing and presenting a continuing education activity. A licensee who organizes and presents a continuing education activity receives the same number of continuing education hours as those who attend the continuing education activity;
6. Attending a Board meeting or serving as a member of the Board. A licensee receives up to six continuing education hours in professional ethics for attending both morning and afternoon sessions of a Board meeting and three continuing education hours for attending either the morning or afternoon session or at least four hours of a Board meeting. A licensee shall complete documentation provided by the Board at the time the licensee attends a Board meeting. During a license period, the Board shall not accept from a licensee more than 10 continuing education hours obtained by attending a Board meeting;
7. Serving as a complaint consultant. During a license period, a licensee who serves as a Board complaint consultant to review Board complaints and provide written reports to the Board or provides expert testimony on behalf of the Board may receive continuing education hours equal to the actual number of hours served as a complaint consultant to a maximum of 20 hours. A licensee who is paid by the Board for services rendered shall not receive continuing education credit for the time or services for which payment was made;
8. The Board shall allow a maximum of 10 continuing education hours for each of the following during a license period:
   a. Attending a Board meeting or serving as a member of the Board. A licensee receives up to six continuing education hours in professional ethics for attending both morning and afternoon sessions of a Board meeting and three continuing education hours for attending either the morning or afternoon session or at least four hours of a Board meeting. A licensee shall complete documentation provided by the Board at the time the licensee attends a Board meeting;
   b. Having an authored or co-authored psychology book, psychology book chapter, or article in a peer-reviewed psychology journal published. A licensee who has an authored or co-authored psychology book, psychology book chapter, or article in a peer-reviewed psychology journal published receives 10 continuing education hours in the year of publication;
   c. Participating in a study group for professional growth and development as a psychologist. A licensee receives one hour of continuing education for each hour of participation to a maximum of 10 continuing education hours.
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hours for participating in a study group. The Board shall allow continuing education hours for participating in a study group only if the licensee maintains the documentation required under subsection (G)(5);

40. d. Presenting a symposium or paper at a state, regional, national, or international psychology meeting. A licensee who presents a symposium or paper receives the same number of continuing education hours as hours of the session, as published in the agenda of the meeting, at which the symposium or paper is presented to a maximum of 10 continuing education hours in a license period;

41. e. Presenting a poster during a poster session at a state, regional, national, or international psychology meeting. A licensee who presents a poster receives an hour of continuing education for each hour the licensee is physically present with the poster during the poster session, as published in the agenda of the meeting, to a maximum of 10 continuing education hours in a license period; and

42. f. Serving as an elected officer of an international, national, regional, or state psychological association or society. A licensee who serves as an elected officer may receive continuing education hours equal to the actual number of hours served to a maximum of 10 continuing education hours in a license period.

E. No change

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

F. Standards for continuing education. To be acceptable for continuing education credit, an activity identified in subsections (D)(1) through (4) shall:

1. Focus on the practice of psychology, as defined at A.R.S. § 32-2061(8) (9), for at least 75 percent of the program hours; and
2. Be taught by an instructor who is:
   a. Currently licensed or certified in the instructor’s profession or works at least 20 hours each week as a faculty member at a regionally accredited college or university;
   b. A fellow diplomate, or specialist; or
   c. Readily identifiable as competent in the subject of the continuing education by having an advanced degree, teaching experience, work history, published professional articles, or previously presented continuing education on the same subject.

G. The Board shall accept the following documents as evidence of completion of continuing education hours:

1. A certificate of attendance or completion;
2. Statement signed by the provider verifying participation in the activity;
3. Official transcript Copy of transcript of course completed under subsection (D)(1);
4. Documents indicating a licensee’s participation as an elected officer or appointed member as specified in subsection (D)(12) (D)(7)(f); or
5. An attestation signed by all participants of a study group under subsection (D)(9) (D)(7)(c) that includes a description of the activity, subject covered, dates, and number of hours.

H. No change
I. No change
J. No change

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

K. No change
L. No change

R4-26-208. Time Frames for Processing Applications

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

1. No change
2. No change

K. If the Board denies a license or approval, the Board shall send the applicant or person requesting approval a written notice explaining:

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

I. If the last day of a time frame falls on a Saturday, Sunday, or an official state holiday, the time frame ends on the next business day.

R4-26-210. Supervised Professional Experience

A. No change

1. No change

2. No change

3. 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

B. No change

1. No change
   a. No change
   b. No change

2. No change

3. No change

4. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change

5. No change

6. No change

C. Under A.R.S. § 32-2071(G)(5), at least 40 percent of an applicant’s supervised postdoctoral experience shall involve direct client or patient contact. If an applicant’s supervised postdoctoral hours applied toward licensure include less than 40 percent direct contact hours, the applicant shall work additional time to achieve the required percentage of direct contact hours. While additional direct contact hours may be obtained to meet this requirement, the Board shall count no more than 1,500 hours of total postdoctoral experience for the purpose of licensure.

ARTICLE 3. REGULATION

R4-26-304. Representation before the Board by Attorney Not Admitted to State Bar of Arizona

An attorney who is not a member of the State Bar of Arizona shall not represent a party before the Board unless the attorney is admitted to practice pro hac vice before the Board under Rule 38(a) of the Rules of the Supreme Court of Arizona.

R4-26-310. Disciplinary Supervision; Practice Monitor

A. If the Board determines, after a hearing conducted under A.R.S. Title 41, Chapter 6, Article 10, after an informal interview with the Board, that to protect public health and safety and ensure a licensee’s ability to engage safely in the practice of psychology, it is necessary to require that the licensee practice psychology for a specified term under the supervision of another licensee who provides supervision or service as a practice monitor, the Board shall enter into an agreement with the licensee or issue an order regarding the disciplinary supervision or practice monitoring.

B. Payment between a licensee and supervisor or practice monitor.

1. A licensed psychologist who enters into an agreement with the Board or is ordered by the Board to practice psychology under the supervision of another licensee may pay the supervising licensee for the supervisory service; and

2. A licensed psychologist who provides supervisory service to a licensed psychologist who has been ordered by the Board or entered into an agreement with the Board to practice psychology under supervision may accept payment for the supervisory service.

3. A licensed psychologist who enters into an agreement with the Board or is ordered by the Board to practice psychology under a practice monitor may pay the practice monitor for the service provided; and

4. A licensed psychologist who provides practice monitoring to a licensed psychologist who has been ordered by the Board or entered into an agreement with the Board to practice psychology under a practice monitor may accept payment for the service provided.

C. A licensed psychologist who supervises or serves as a practice monitor for a licensed psychologist who has entered an
agreement with the Board or been ordered by the Board to practice psychology under supervision or with a practice monitor is professionally responsible only for work specified in the agreement or order.
NOTICES OF PROPOSED EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Exempt Rulemaking. An agency may be exempt from rulemaking standards outlined in the Arizona Administrative Procedures Act (APA).

An agency’s exemption is listed in the Preamble of the rulemaking as specified under: A.R.S. §§ 41-1005 or 41-1057; or a specific statute; or if a rule is promulgated by the Corporation Commission, it is exempt from Attorney General review under a court decision as determined by the Commission.

If an agency determines it is exempt under the law or court decision, the law may still require publication of the Proposed Exempt Rulemaking in this section to solicit and review public comments on the rulemaking.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-215]

PREAMBLE

1. Article, Part or Sections Affected (as applicable) Rulemaking Action
   R2-20-110 Amend

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. § 16-940, et seq.
   Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
   The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

3. The effective date of the rule and the agency’s reason it selected the effective date:
   The proposal may be effective no sooner than January 1, 2017.

4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
   Not applicable

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Thomas M. Collins, Executive Director
   Address: Citizens Clean Elections Commission
       1616 W. Adams St., Suite 110
       Phoenix, AZ 85007
   Telephone: (602) 364-3477
   Fax: (602) 364-3487
   E-mail: thomas.collins@azcleanelections.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   R2-20-110. Participating Candidate Reporting Requirements
   Updates rule to remove antiquated cross-references. Reorganizes section on certain expenses into this section from R2-20-703. Provides for a post-general election report for participating candidates to ensure monies owed to the Clean Elections Fund are returned and properly used. The legality of provisions of SB1516 and HB2297, and their
companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

8. A showing of good cause why the rule is necessary to promote a statewide interest if the 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:
   Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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

13. A list of any incorporated by reference material and its location in the rules:
    Not applicable

14. Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section R2-20-110. Participating Candidate Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-110. Participating Candidate Reporting Requirements

A. No change
   1. No change
   2. No change
   3. No change
      a. No change
      b. No change
      c. No change
   4. No change
a. Joint expenditures must be authorized in advance by all candidates sharing in the expenditure and allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.

b. No change
c. No change
d. No change
e. A candidate’s payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:
   i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
   ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
   iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
   iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
   v. The timing of the material or activity in relation to the election of a second candidate;
   vi. The distribution of the material or the activity is targeted to a second candidate’s electorate; or
   vii. The amount of control a second candidate has over the material or activity.

5. No change

B. No change

1. Except as set forth in subsection (B)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.

2. In the alternative to reporting in accordance with subsection (B)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
   a. No change
   b. No change
   c. No change

C. No change

1. In addition to the campaign finance reports, any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, filed pursuant to A.R.S. § 16-912, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
   a. No change
   b. No change
      i. No change
      ii. No change

2. No change
   a. No change
   b. The campaign finance report for the general election shall be considered filed upon the filing of the post general campaign finance report filed in accordance with A.R.S. § 16-913(B)(3) filed within five days after the general election day and shall reflect all activity through the general election day.

3. No change

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-216]

PREAMBLE

1. Article, Part or Sections Affected (as applicable)   Rulemaking Action
   R2-20-111   Amend

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. § 16-940, et seq.
   Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
   The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.
3. **The effective date of the rule and the agency’s reason it selected the effective date:**
   
   The proposal may be effective no sooner than January 1, 2017.

4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
   
   Not applicable

5. **The agency’s contact person who can answer questions about the rulemaking:**
   
   Name: Thomas M. Collins, Executive Director
   
   Address: Citizens Clean Elections Commission
   
   1616 W. Adams St., Suite 110
   
   Phoenix, AZ 85007
   
   Telephone: (602) 364-3477
   
   Fax: (602) 364-3487
   
   E-mail: thomas.collins@azcleanelections.gov

6. **An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
   
   R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits
   
   Provides that the twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by candidates. Provides that contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B). The legality of provisions of SB1516 and HB2297, and their companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the 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:**
   
   Not applicable

10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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

13. **A list of any incorporated by reference material and its location in the rules:**
    
    Not applicable

14. **Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.
15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

A. No change

B. No change

1. No change

2. No change

3. No change

4. No change

C. No change

D. No change

E. The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by candidates.

F. Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-211]

PREAMBLE

1. Article, Part or Sections Affected (as applicable) Rulemaking Action
   R2-20-112 Amend

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. § 16-940, et seq.
   Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
   The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

3. The effective date of the rule and the agency’s reason it selected the effective date:
   The proposal may be effective no sooner than November 17, 2016.

4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
   Not applicable

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Thomas M. Collins, Executive Director
   Address: Citizens Clean Elections Commission
   1616 W. Adams St., Suite 110
   Phoenix, AZ 85007
   Telephone: (602) 364-3477
   Fax: (602) 364-3487
   E-mail: thomas.collins@azcleanelections.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   R2-20-112. Political Party Exception
Replaces political party exception with antiquated cross-reference with new section cross referencing statute effective November 5, 2016. The legality of provisions of SB1516 and HB2297, and their companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

8. A showing of good cause why the rule is necessary to promote a statewide interest if the 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:
   Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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

13. A list of any incorporated by reference material and its location in the rules:
    Not applicable

14. Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section
R2-20-112. Political Party Exceptions

ARTICLE 1. GENERAL PROVISIONS

R2-20-112. Political Party Exceptions
A. Pursuant to A.R.S. §§ 16-901(5)(b)(v) and (8)(c), payment by a political party of the costs of preparation, printing, display, mailing or other distribution for slate cards, sample ballots, other written materials or listings of candidates that substantially promote three or more candidates for any public office for which an election is held, and other election activities not related to a specific candidate, shall not be considered a contribution or an expenditure for purposes of the Act or Commission rules. This exception is subject to the following limitations:
1. “Slate card” is defined as a list that contains only the names, party affiliations and offices sought by the candidates, photographs of the candidates, and general information regarding the date of the primary or general election and the location of the recipient’s polling place;
2. “Sample ballot” is defined as a facsimile of a ballot listing only the names, party affiliations and offices sought by the candidates, appearing substantially as they would on an actual ballot;

3. “Other written materials or listings of candidates that substantially promote three or more candidates” are defined as materials that contain one or more of the elements of a slate card, in addition to statements and/or images describing the platform of the sponsoring party and the position of the party’s candidates, and does not feature, mention, or depict a candidate or candidates of another party;

4. “Other election activities not related to a specific candidate” includes invitations to party-sponsored events, issue canvassing, and voter-registration efforts;

5. “Billboards” are defined as outdoor signs that are larger than thirty-two square feet in size.

6. The exception set forth in Subsection (A) shall not apply to materials defined in 1-3 above when distributed or displayed prior to the general election period unless each candidate featured is unopposed in the primary election.

7. The exception set forth in this Subsection (A) shall not apply to costs incurred with respect to a display of the listing of candidates made on telecommunications systems, billboards, or in newspapers, magazines or similar types of general circulation advertising.

B. This Section is intended to establish, for purposes of the Act and Commission rules, circumstances under which the payment by a political party of certain costs described herein shall be excluded from the definition of contribution pursuant to A.R.S. § 16-901(5)(b)(v) or from the definition of expenditures pursuant to A.R.S. § 16-901(8)(c), as applicable. Nothing in this Section shall be construed to prohibit a political party from making any expenditure or contribution not otherwise prohibited by Arizona law.

C. The Commission shall treat as an expenditure of de minimis value the payment by a political party of the costs of (1) preparation and display on the political party’s website of a slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held; or (2) preparation and distribution via email, to recipients who have subscribed to receive email from the political party and whose email addresses are not rented, purchased or otherwise obtained from a third-party source, of a slate card, sample ballot or other printed listing of three or more candidates for any public office for which an election is held. A political party that pays the costs of preparation, display and/or distribution of a slate card, sample ballot or other printed listing of three or more candidates, as described in this subsection, and which is otherwise required to file a campaign finance report in accordance with A.R.S. § 16-913, shall disclose such payment as an expenditure with a value of zero dollars.

The provisions of A.R.S. § 16-911(B)(4) shall apply to a candidate, whether participating or nonparticipating, who becomes a nominee as defined in A.R.S. § 16-901(38).

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-217]

PREAMBLE

1. Article, Part or Sections Affected (as applicable) Rulemaking Action

R2-20-115 Amend

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. § 16-940, et seq.
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).

The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

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

The proposal may be effective no sooner than January 1, 2017.

4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:

Not applicable

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

Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
         1616 W. Adams St., Suite 110
         Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   R2-20-111. Books and Records Requirements
   Updates rule to remove antiquated cross-references. The legality of provisions of SB1516 and HB2297, and their companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

8. A showing of good cause why the rule is necessary to promote a statewide interest if the 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:
   Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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

13. A list of any incorporated by reference material and its location in the rules:
    Not applicable

14. Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

   TITLE 2. ADMINISTRATION
   CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

   ARTICLE 1. GENERAL PROVISIONS

   Section
   R2-20-115. Books and Records Requirements

   ARTICLE 1. GENERAL PROVISIONS

   R2-20-115. Books and Records Requirements
   A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-90416-907.
   B. No change
   1. No change
NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

PREAMBLE

1. Article, Part or Sections Affected (as applicable) Rulemaking Action
   R2-20-402.01 Amend

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. § 16-940, et seq.
   Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
   The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

3. The effective date of the rule and the agency’s reason it selected the effective date:
   The proposal may be effective no sooner than November 17, 2016.

4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
   Not applicable

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Thomas M. Collins, Executive Director
   Address: Citizens Clean Elections Commission
            1616 W. Adams St., Suite 110
            Phoenix, AZ 85007
   Telephone: (602) 364-3477
   Fax: (602) 364-3487
   E-mail: thomas.collins@azcleanelections.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   R2-20-402.01. Random Audits
   Limits random audits to participating legislative candidates, instead of both participating legislative candidates and participating statewide candidates. The legality of provisions of SB1516 and HB2297, and their companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent
with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

8. A showing of good cause why the rule is necessary to promote a statewide interest if the 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:
   Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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

13. A list of any incorporated by reference material and its location in the rules:
    Not applicable

14. Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

   TITLE 2. ADMINISTRATION

   CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

   ARTICLE 4. AUDITS

   Section
   R2-20-402.01. Random Audits of Participating Legislative Candidates

   ARTICLE 4. AUDITS

   R2-20-402.01. Random Audits of Participating Legislative Candidates
   To ensure compliance with the Act and Commission rules, the Commission shall conduct random audits of participating legislative candidates after each primary election period and each general election period. Random audits shall include the review of campaign finance reports and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the random audits. The selection of statewide and legislative candidates for audit shall be determined by random lot at a Commission meeting. Candidates shall not be subject to selection for random audit for the general election period that were selected for random audit following the primary election period.
NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

PREAMBLE

1. Article, Part or Sections Affected (as applicable) Rulemaking Action
R2-20-402.02 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. § 16-940, et seq.
   Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
   The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

3. The effective date of the rule and the agency’s reason it selected the effective date:
The proposal may be effective no sooner than November 17, 2016.

4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
   Not applicable

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Thomas M. Collins, Executive Director
   Address: Citizens Clean Elections Commission
   1616 W. Adams St., Suite 110
   Phoenix, AZ 85007
   Telephone: (602) 364-3477
   Fax: (602) 364-3487
   E-mail: thomas.collins@azcleanelections.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   R2-20-402.02. Audits of Participating Statewide Candidates
   Provides for audits of participating statewide legislative candidates. The legality of provisions of SB1516 and HB2297, and their companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

8. A showing of good cause why the rule is necessary to promote a statewide interest if the 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:
   Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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  

13. A list of any incorporated by reference material and its location in the rules:  
Not applicable  

14. Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.  

15. The full text of the rules follows:  

TITLE 2. ADMINISTRATION  
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION  

ARTICLE 4. AUDITS  

R2-20-402.02. Audits of Participating Statewide Candidates  
All participating statewide candidates shall be audited after each primary election period and each general election period.  

NOTICE OF PROPOSED EXEMPT RULEMAKING  

TITLE 2. ADMINISTRATION  
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION  

PREAMBLE  

1. Article, Part or Sections Affected (as applicable) Rulemaking Action  
R2-20-703 Amend  

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. § 16-940, et seq.  
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).  
The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.  

3. The effective date of the rule and the agency’s reason it selected the effective date:  
The proposal may be effective no sooner than January 1, 2017.  

4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:  
Not applicable  

5. The agency’s contact person who can answer questions about the rulemaking:  
Name: Thomas M. Collins, Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007
6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

R2-20-703. Documentation for Direct Campaign Expenditures

Removes language relating to certain expenditures that has been moved to R2-20-110. The legality of provisions of SB1516 and HB2297, and their companion measure HB2296 (all enacted in the 2016 legislative session) remain open to question. In the interest of consistency, the Commission proposes to adopt rules consistent with those changes where the Commission can proceed consistent with its legal duties. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

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

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the 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:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and 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 Commission solicits public comment throughout the rulemaking process.

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 the 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

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

Not applicable

14. Whether this rule 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 rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section R2-20-703. Documentation for Direct Campaign Expenditures

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-703. Documentation for Direct Campaign Expenditures

A. No change

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

B. No change

C. Joint expenditures. Expenditures may be made in conjunction with other candidates, but each candidate shall pay his or her proportionate share of the cost. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:

1. The activity includes express advocacy of the election or defeat of more than 2 candidates;
2. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
3. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
4. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
5. The timing of the material or activity in relation to the election of a second candidate;
6. The distribution of the material or the activity is targeted to a second candidate’s electorate; or
7. The amount of control a second candidate has over the material or activity.

D. No change
NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL

REISSUANCE OF AZPDES GENERAL PERMIT FOR
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

1. Name of the agency: Department of Environmental Quality
2. Type of notice filed: Reissuance of Small MS4 General Permit
3. Notice of final permit determination:

The Arizona Department of Environmental Quality (ADEQ) has reissued an Arizona Pollutant Discharge Elimination System (AZPDES) general permit (No. AZG2016-002), effective September 30, 2016, for stormwater discharges from Small Municipal Separate Storm Sewer Systems (Small MS4s) to Waters of the United States by eligible MS4 operators.

This general permit is reissued pursuant to Arizona Administrative Code (A.A.C.), Title 18, Article 9, Parts A and C.

Prior to reissuing this AZPDES permit, existing Small MS4 operators were discharging under ADEQ’s 2002 Small MS4 General Permit. The former permit expired in 2007 and was administratively continued pursuant to A.A.C. R18-9-C903(B). The administrative continuance and permittees’ coverage under that permit ended on September 30, 2016.

Eligible Small MS4 operators are now covered under the 2016 Small MS4 General Permit. To maintain permit coverage, every permittee must submit a complete and accurate Notice of Intent (NOI) to ADEQ by March 29, 2017. ADEQ will provide more information about the NOI requirement to Small MS4 operators in a notification letter.

As part of the process for re-issuing the Small MS4 general permit, ADEQ implemented a stakeholder process that included a series of meetings to discuss modification to the proposed permit; opportunity for informal comment; two public notices in the Arizona Administrative Register (July 17 and December 15, 2015); subsequent formal comment periods; and a public hearing (January 20, 2016).

4. The final general permit and associated documents:

Stakeholder comments received during the public notice periods, ADEQ’s responses, and the resulting changes in the final permit are itemized in a “Response to Comments” document issued with the permit. The final general permit, fact sheet, and response to comments are available on the ADEQ website at: http://www.azdeq.gov/MS4_GP

Printed copies may be requested from the ADEQ Records Center:

Email: RecordsCenter@azdeq.gov
Telephone: (602) 771-4380
FAX: (602) 771-4389
By mail or in person: ADEQ Records Center
1110 West Washington Street
Phoenix, Arizona 85007
To request an auxiliary aid or service for accessible communication, please contact (602) 771-2215 or at co2@azdeq.gov or dial 7-1-1 for TTY/TTD Services.
EXECUTIVE ORDER 2016-03

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, 2016, as a notice to the public regarding state agencies’ rulemaking activities.

WHEREAS, Arizona is poised to lead the nation in job growth;
WHEREAS, burdensome regulations inhibit job growth and economic development;
WHEREAS, small businesses and startups are especially hurt by regulations;
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 comply with a state statutory requirement.
   g. 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.
   h. 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.
   i. 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.
   j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. For the purposes of this Order, the term “State agencies,” includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded...
from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.

4. 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.

5. This Executive Order expires on December 31, 2016.

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
GOVERNOR

DONE at the Capitol in Phoenix on this Eighth day of February in the Year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-Fourth.

ATTEST:
Michele Reagan
Secretary of State
Governor Proclamations

ARIZONA ARCHIVES MONTH

WHEREAS, much of our state’s rich and diverse heritage is contained in the documents and records created by and for its people; and

WHEREAS, state and local governments, religious and medical institutions, colleges and universities, libraries, historical societies, museums, businesses, and families throughout Arizona have established archives as a means of preserving our written history; and

WHEREAS, these archives collectively contain over 152 years of unique materials, ranging from hand-written letters and diaries to typewritten manuscripts, photographs, audio-visual media, and modern electronic data systems and records; and

WHEREAS, archivists and manuscript curators in Arizona are dedicated to responsibly preserving the historical word, maintaining records in the public trust, and making those records available for study and appreciation whether in a local repository or via the internet; and

WHEREAS, through these archives, future generations of Arizonans can more accurately study the past, learn from the accomplishments of their predecessors, trace their ancestors, understand their community’s pride of place, confirm property rights, and maintain laws, while celebrating the history of our state.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2016 as ARIZONA ARCHIVES MONTH and I further encourage all Arizonans to discover the rich treasures contained in local archival repositories across Arizona.

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
GOVERNOR
DONE at the Capitol in Phoenix on this sixth day of September in the year Two Thousand and Sixteen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

A WEEK WITHOUT VIOLENCE

WHEREAS, the Children’s Benefit Foundation, a 501(C)(3) organization, makes substantial contributions to the future of America’s children, our voters, workers, and citizens of tomorrow by promoting a C.O.O.L. (Choice Of Optimum Lifestyle) and a G.O.O.D.® (Get Off Of Drugs, Drinking, Danger and Debt) lifestyle; and

WHEREAS, excellence in wellness and good health is dependent on a safe and healthy environment, in the home, and in the community; and

WHEREAS, the safety and well-being of everyone’s lives are unnecessarily jeopardized by crime and violence in the form of gangs, spousal and child abuse, drug and alcohol abuse, vandalism and school shootings in our growing communities; and

WHEREAS, it is our responsibility as Arizona residents to support each other in advocating non-violence and securing a future for our children and safe families; and

WHEREAS, violence is one of our nation’s biggest challenges and we must look for a solution to end the violence; and

WHEREAS, numerous businesses, schools, national programs and organizations around the world are among those creating answers; and

WHEREAS, the observance of “A WEEK WITHOUT VIOLENCE” will create awareness, educate and strengthen the message that we can substantially promote all of our state and nation to join us in our campaign advocating non-violence and make a solemn commitment to end the violence and promote peace, making our community a safer place to live.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 9 – 16, 2016 as
A WEEK WITHOUT VIOLENCE

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
GOVERNOR
DONE at the Capitol in Phoenix on this first day of September in the year Two Thousand and Sixteen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

DISABILITY EMPLOYMENT AWARENESS MONTH

WHEREAS, Arizona workplaces welcoming of the talents of all residents, including individuals with disabilities, are a critical part of our efforts to build a strong business community and a dynamic, robust economy; and

WHEREAS, Arizona stands to benefit from an integrated workforce where people with and without disabilities work side by side earning competitive wages and benefits. Businesses that hire, retain, and include people with disabilities continue to discover that a strong workforce is an inclusive workforce. The perspective skills and creativity of people with disabilities benefit employers who acknowledge each person’s unique strengths and talents; and

WHEREAS, Arizona employment broadens the tax base and helps to create an environment where individuals with developmental disabilities are less reliant on government funded programs. Employment provides Arizonans with disabilities the opportunity to be contributing members of society by achieving self-fulfillment, economic independence, and community inclusion; and

WHEREAS, each October, an awareness campaign is conducted to support equal employment opportunities for people with disabilities and to celebrate their contribution to the workforce. Throughout Arizona it’s what people can do that matters and the theme for this year’s campaign is #InclusionWorks.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2016 as DISABILITY EMPLOYMENT AWARENESS MONTH and I encourage all Arizonans to recognize the strengths that people with disabilities can bring to our workforce, our community and our state as a whole.

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
GOVERNOR
DONE at the Capitol in Phoenix on this first day of September in the year Two Thousand and Sixteen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE

FILIPINO-AMERICAN HISTORY MONTH

WHEREAS, in November 2009, the United States Congress passed a resolution officially recognizing October as Filipino-American History Month; and

WHEREAS, Filipinos and Filipino-Americans in the United States have since celebrated Filipino-American History Month (also known as Filipino-American Heritage Month) with community events, programs and activities; and

WHEREAS, Filipino-Americans have been a part of the American experience and have remained resolute and steadfast in the face of difficult times and challenges; and

WHEREAS, Filipinos are the largest Asian ethnic group in Arizona and, with 3.4 million Americans of Philippine ancestry living in the United States, they are the second largest Asian group in the country; and

WHEREAS, Filipino-American servicemen and women have a longstanding history serving in the Armed Services, including the 250,000 Filipinos who bravely and courageously fought under the United States flag during World War II, and continue to protect and defend this country today; and
WHEREAS, Filipino-Americans have made significant contributions to the fine arts, music, dance, literature, journalism, education, business, sports, fashion, politics, government, science, technology and other fields that enrich the landscape of the State of Arizona and this great Nation.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, do hereby proclaim October 2016 as

FILIPINO-AMERICAN HISTORY MONTH

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
GOVERNOR
DONE at the Capitol in Phoenix on this sixth day of September in the year Two Thousand and Sixteen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:
Michele Reagan
SECRETARY OF STATE
### REGISTER INDEXES

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

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
- **SPXM** = Supplemental Proposed Exempt amended Section
- **SPXR** = Supplemental Proposed Exempt repealed 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
## RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the Register issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

**THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 43 OF VOLUME 22.**

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### 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>
<thead>
<tr>
<th>Deadline Date (paper only)</th>
<th>Register Publication Date</th>
<th>Oral Proceeding may be scheduled on or after</th>
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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 noon 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.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2016

<table>
<thead>
<tr>
<th>DEADLINE TO BE PLACED ON COUNCIL AGENDA</th>
<th>FINAL MATERIALS DUE FROM AGENCIES</th>
<th>DATE OF COUNCIL STUDY SESSION</th>
<th>DATE OF COUNCIL MEETING</th>
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*Materials must be submitted by noon on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.
GOVERNOR'S REGULATORY REVIEW COUNCIL
NOTICE OF ACTION TAKEN AT THE
OCTOBER 4, 2016 MEETING

RULES:

ARIZONA BOARD OF PSYCHOLOGIST EXAMINERS (R-16-1001)
Title 4, Chapter 26, Article 1, General Provisions; Article 2, Licensure; Article 3, Regulation

Amend: R4-26-101; R4-26-108; R4-26-203.03; R4-26-205; R4-26-206; R4-26-207; R4-26-210; R4-26-304; R4-26-310
New Section: R4-26-109; R4-26-110; R4-26-111; R4-26-203.04

COUNCIL ACTION: APPROVED, IMMEDIATE EFFECTIVE DATE

ARIZONA STATE RETIREMENT SYSTEM (R-16-1002)
Title 2, Chapter 8, Article 1, Retirement System; Defined Benefit Plan

Amend: R2-8-126

COUNCIL ACTION: APPROVED

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (R-16-1003)
Title 9, Chapter 22, Article 4, Penalty for Obtaining Eligibility by Fraud

New Article: Article 4
New Section: R9-22-401; R9-22-402; R9-22-403; R9-22-404; R9-22-405; R9-22-406; R9-22-407; R9-22-408

COUNCIL ACTION: APPROVED, IMMEDIATE EFFECTIVE DATE

ARIZONA DEPARTMENT OF ECONOMIC SECURITY (R-16-1004)
Title 6, Chapter 5, Article 52, Certification and Supervision of Family Child Care Home Providers

Amend: R6-5-5201; R6-5-5202; R6-5-5207; R6-5-5217; R6-5-5218; R6-5-5219

COUNCIL ACTION: APPROVED, IMMEDIATE EFFECTIVE DATE

FIVE-YEAR-REVIEW REPORTS:

ARIZONA DEPARTMENT OF INSURANCE (F-16-0804)
Title 20, Chapter 6, Article 1, Hearing Procedures and Rulemaking Petitions; Article 2, Transaction of Insurance; Article 3, Financial Provisions and Procedures; Article 18, Prepaid Dental Plan Organizations; Article 20, Captive Insurers; Article 23, Threshold Rate Review – Individual Health Insurance

COUNCIL ACTION: APPROVED

ARIZONA STATE BOARD OF CHARTER SCHOOLS (F-16-0901)
Title 7, Chapter 5, Article 3, Charter Oversight; Article 5, Audits and Audit Contracts
COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF CHILD SAFETY (F-16-0902)
Title 6, Chapter 5, Article 74, Licensing Process and Licensing Requirements for Child Welfare Agencies Operating Residential Group Care Facilities and Outdoor Experience Programs

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF TRANSPORTATION (F-16-0903)
Title 17, Chapter 4, Article 7, Hazardous Materials Endorsement

COUNCIL ACTION: APPROVED

CITIZENS CLEAN ELECTIONS COMMISSION (F-16-0104)
Title 18, Chapter 14, Article 1, General Provisions; Article 2, Compliance and Enforcement Procedures; Article 3, Standard of Conduct for Commissioners and Employees; Article 4, Audits; Article 5, Rulemaking; Article 6, Ex Parte Communications; Article 7, Use of Funds and Repayment

COUNCIL ACTION: RETURNED

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (F-16-0608)
Title 18, Chapter 14, Articles 1, Water Quality Protection Fees; Article 2, Public Water System Design Review Fees

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF HEALTH SERVICES (F-16-1005)
Title 9, Chapter 16, Article 1, Licensing of Midwifery

COUNCIL ACTION: TABLED TO APRIL 4, 2017