
NOTICES OF FINAL RULEMAKING

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

The final published notice includes a preamble and

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

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

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R15-151]

PREAMBLE

- | <u>1. Articles, Parts, and Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R2-8-104 | Amend |
| R2-8-115 | Amend |
| R2-8-118 | Amend |
| R2-8-120 | Amend |
| R2-8-123 | Amend |
| R2-8-126 | Amend |
| R2-8-401 | Amend |
| R2-8-501 | Amend |
| R2-8-601 | Amend |
| R2-8-701 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 38-714(E)(4)
Implementing statutes: A.R.S. §§ 38-711, 38-712, 38-715, 38-738, 38-740, 38-742, 38-743, 38-745, 38-747, 38-755, 38-760, 38-762, 38-769, 38-770, 38-771, 38-772, 38-773, 38-776, 38-924, 41-1001, 41-1092
- 3. The effective date for the rules:**
December 5, 2015
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
Not applicable
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
Not applicable
- 4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
Notice of Rulemaking Docket Opening: 21 A.A.R. 726, May 22, 2015
Notice of Rulemaking Docket Opening: 21 A.A.R. 931, June 26, 2015
Notice of Proposed Rulemaking: 21 A.A.R. 959, July 3, 2015
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Jessica A. Ross, Rule Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Ste. 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039



E-mail: JessicaR@azasrs.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:

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

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

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

No study was reviewed.

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

Not applicable

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

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

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

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

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

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

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



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

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

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

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

None

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

The rules do not require a permit.

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

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

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

Not applicable

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

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

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

Section	
R2-8-401.	Definitions

ARTICLE 5. PURCHASING SERVICE CREDIT

Section	
R2-8-501.	Definitions

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

Section	
R2-8-601.	Definitions

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

Section	
R2-8-701.	Definitions



ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

R2-8-104. Definitions

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



- 4. An entity may modify its agreement to extend coverage to services performed after 1967 in any class or classes of positions compensated solely by fees not covered under an agreement prior to 1968. However, the entity must specifically include such services where this coverage is desired. Such coverage shall be effective with respect to services in such fee-basis positions performed beginning with the first day of the year after the year in which the agreement is approved.
- 5. An entity may at any time after 1967 modify its agreement to exclude services performed in any class or classes of positions compensated solely by fees. Such an exclusion from coverage is effective the first day of the year following the year in which the agreement is approved. If any class or classes of positions are so excluded, the entity cannot at a later date modify its agreement to again cover the services.

G. Exclusion by class or classes of positions:

- 1. Basic classifications may be made within either elective, part-time, or fee-basis positions according to a class or classes of positions having common characteristics or attributes, and exclusions limited to such classes. A class of positions includes all of the positions in the coverage group which have these common characteristics. Services in one or more classes or combinations of classes may be excluded. Positions may be excluded in one class and covered in another. For example, in a coverage group there may be excluded services in all elective positions or the exclusion could be limited to services in all elective positions except elective judicial positions and except part time elective positions.
- 2. Positions in a single organizational unit of the coverage group do not constitute a class of positions. Therefore, while all of the part time maintenance workers of a county could be excluded under the part time option, the exclusion could not be limited to all or any class or part time maintenance workers in the Office of the County Clerk, which is an organizational unit of the county.

H. Agricultural labor which would be excluded if performed for a private employer:

- 1. Under the federal Social Security Act, when the agricultural exclusion has been taken, tests as to services which are excluded should be applied to all reports covering reporting quarters beginning on or after January 1, 1957. Cash remuneration paid to an employee for agricultural services should be reported only if:
 - a. Such remuneration paid the employee during a calendar year (even though part of it was for services performed in a previous calendar year) amounts to \$150 or more; or
 - b. The employee performs agricultural services for the employer on some part of a day on at least 20 days during a calendar year for cash remuneration computed on a time basis, as by the hour, day, or week; in which event the amount of cash remuneration is immaterial in determining if the services are covered.
- 2. Services performed by individuals lawfully admitted from any foreign country on a temporary basis to perform agricultural labor are excluded.

I. Student service exclusion: Only those student services which would be mandatorily excluded if performed for a private employer fall within this exclusion. Where this exclusion is taken, the following services are not covered:

- 1. Services performed by a student regularly enrolled and attending classes in the employ of his school, college, or university. This means the employing entity and not necessarily the individual institution. The exclusion applies only during periods of regular school attendance. Thus, the exclusion does not apply to work done during summer vacation unless the student is attending a summer session. This is true even though the student was enrolled and regularly attending classes in the school during the previous year and expects to return to school the following year. Services performed on holidays and weekends falling within the academic year when classes are not scheduled, on the other hand, are excluded.
- 2. Services performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school chartered or approved pursuant to state law. It is not necessary that the nurses' training school in which the student nurse is enrolled and attending classes be located within the approving state as long as the school meets the educational standards established by state law for the approval of schools within the state.

J. Services performed by election officials or election workers if remuneration paid in a calendar quarter is less than \$50:

- 1. Prior to the 1967 amendments to the Social Security Act, there was no provision for a specific exclusion of the services of election officials or election workers. The exclusion of such services was possible, however, by exclusion of a class of services for which an exclusion was permitted, i.e., exclusion of election officials and election workers as a class of part time or fee-basis positions.
- 2. This optional exclusion of services performed by election officials or election workers is dependent on the amount paid in a calendar quarter for such services, e.g., if the remuneration paid in the third calendar quarter of a year amounts to \$50 or more, the services are covered and must be reported regardless of the fact that the remuneration paid in any other calendar quarter for election officials' or election workers' services amount to \$49.99 or less and is not reportable.
- 3. These services may continue to be excluded as a class of part time or fee basis positions without regard to the amount paid for such services. These services would, of course, be excluded already if a part-time or fee-basis position exclusion in broad enough terms was previously exercised. The purpose of the optional exclusion of services performed by election officials or election workers if remuneration in a calendar quarter is less than \$50 is to permit the exclusion to be taken where one was not previously taken. The effective date of exclusion for these services



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

4. On or after January 1, 1978, a political entity can modify its agreement to specifically exclude the services of election officials or election workers if the remuneration paid in a calendar year is less than \$100. A change to \$100 in a year from \$50 in a calendar quarter requires the execution of a new modification. For modification executed after December 31, 1977, the \$100 in a year test must be used.
- K.** "Wages" (A.R.S. § 38-701(8)) means all remuneration paid to employees whose services are covered under an agreement in a calendar year not in excess of the maximum reportable wages on which social security contributions are due.
1. Wages include the cash value of remuneration paid to employees other than money, for example, the value of room and board. The valuation of room and board furnished an employee by a political entity shall be computed at the same valuation as computed by the Industrial Commission for payment of workmen's compensation premiums.
 2. If, as a part of the employment, it is understood that the employee is entitled to meals and the employer is to furnish them, the value of such meals is wages and should be reported. If there is no understanding (either orally or in writing) that meals will be furnished the employee, but they are in fact provided, the value of the meals would be wages if it is substantial. The value of meals may be considered as not substantial if it is less than five percent of the cash pay.
 3. The employer's report of wages paid for each calendar quarter to the Arizona State Retirement System Board shall include for each employee both the cash wages and the value of room and board as a lump sum for the quarter for which the report is made.
 4. The employee tax shall be deducted from the wages paid in accordance with the method of including the value of remuneration paid in any medium other than cash in each pay period or in a single pay period in the calendar quarter.
 5. The value of meals and lodging furnished by, or on behalf of an employer to an employee, the employee's spouse, or any of the employee's dependents is not wages for Social Security purposes if:
 - a. The meals or lodging are furnished on the business premises of the employer, and
 - b. The meals or lodging are furnished for the convenience of the employer, and
 - c. The employee is required to accept such lodging as a condition of employment.
- A.** The definitions in A.R.S. § 38-711 apply to this Chapter.
- B.** Unless otherwise specified, in this Chapter:
1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
 2. "Authorized employer representative" means an individual specified by the ASRS employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
 3. "Contribution" means:
 - a. Amounts required by A.R.S. Title 38, Chapter 5, Article 2 to be paid to the ASRS by a member or an employer on behalf of a member other than amounts attributed to the long-term disability program;
 - b. Any voluntary amounts paid to the ASRS by a member to be placed in the member's account; and
 - c. Amounts credited by transfer under A.R.S. § 38-924.
 4. "Day" means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday.
 5. "Designated beneficiary" means the same as in A.R.S. § 38-762(G).
 6. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
 7. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
 8. "Investment return rate" means a percentage of total return on an asset.
 9. "Party" means the same as in A.R.S. § 41-1001(14).
 10. "Person" means the same as in A.R.S. § 41-1001(15).
 11. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
 12. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
 13. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
 14. "System" means the same as "defined contribution plan" in A.R.S. § 38-769(O)(7), and as administered by the ASRS.
 15. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
 16. "United States" means the same as in A.R.S. § 1-215(39).



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

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



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

R2-8-118. Application of Interest Rates

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



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

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

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

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

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

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

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

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

B. No change

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

C. No change

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



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

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

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

R2-8-126. Calculating Benefits

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

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions

The following definitions apply to this Article unless otherwise specified:



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

ARTICLE 5. PURCHASING SERVICE CREDIT

R2-8-501. Definitions

The following definitions apply to this Article unless otherwise specified:

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



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



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

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

R2-8-601. Definitions

The following definitions apply to this Article unless otherwise specified:

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

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

R2-8-701. Definitions

The following definitions apply to this Article unless otherwise specified:

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



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

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 5. BOARD OF BARBERS

[R15-152]

PREAMBLE

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



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

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

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

3. The effective date for the rules:

December 8, 2015

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

Not applicable

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

Not applicable

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

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

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

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

Name: Sam Barcelona

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

Telephone: (602) 542-4498

Fax: (602) 542-3093

E-mail: sam.barcelona@azbarberboard.us

Web site: www.azbarberboard.us

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

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

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

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

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

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

Not applicable

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

None

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

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

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

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

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

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

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

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

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

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

ARTICLE 3. SHOPS

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

ARTICLE 4. SCHOOLS

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

ARTICLE 5. HEARINGS

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

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

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

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



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

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

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

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

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

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

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

“Domestic administration” means barbering performed:

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

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

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

“EPA” means the United States Environmental Protection Agency.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

R4-5-102. Fees and Service Charges

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

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

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

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

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

R4-5-103. Fee Payment

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

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

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

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

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

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



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



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

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

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

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



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

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

R4-5-106. Change of Ownership or Location

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

R4-5-107. Inspections

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

R4-5-108. Licensing Time-frames

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



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

Table 1. Time-frames (in days)

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

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

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

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



R4-5-201. Examinations

A. Required examinations.

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

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

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

R4-5-202. Barber License Application

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

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



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

R4-5-203. Instructor License Application

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



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

R4-5-204. License Renewal Renumbered

ARTICLE 3. SHOPS

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

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



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

C. Fee. In addition to a the completed shop application form required under subsection (B), an applicant shall submit to the Board in cash or by certified instrument the appropriate fee specified in R4-5-102(A)(3) for the licensing action requested under subsection (B)(1).

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

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



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

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

R4-5-303. Shop Supervision

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

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

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

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

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

R4-5-304. Shop Mobile Units

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

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

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

R4-5-305. Display of Barber Pole

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

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

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

ARTICLE 4. SCHOOLS

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

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

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

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

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



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



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

R4-5-402. Notification of Changes

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

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

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

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

R4-5-404. School Premises and Basic Equipment

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

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

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

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

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

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

R4-5-405. School Operations and Enrollment

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

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

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

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



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

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

NOTICE

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

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

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

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

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

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

~~(signature date)~~

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

NOTICE



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

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

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

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

ACKNOWLEDGEMENT OF RECEIPT OF NOTICE

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

~~(signature date)~~

R4-5-406. Student Training and Supervision

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

R4-5-407. School Curriculum

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

R4-5-408. School Records

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



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

R4-5-409. School Closure

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

R4-5-410. Multiple Location Schools Repealed

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

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

R4-5-411. Offsite Training Facility

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



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

ARTICLE 5. HEARINGS

R4-5-501. Hearing Procedures

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

R4-5-502. Rehearing and Review of Decision

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



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

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

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



ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

R12-4-202. Disabled Veteran's License

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



subsection (A).

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