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## B. PROCEDURES FOR RULE ADOPTION

### 1-201 General Provisions

#### A. Purpose

1. This Section (Procedures for Rule Adoption) sets forth the procedures to be followed by the Arizona Board of Regents and the universities under its jurisdiction whenever any rule is proposed for adoption after December 31, 1986. In accordance with A.R.S. 41-1005(B), these procedures are intended to provide, as appropriate under the circumstance, for notice of opportunity for comment on any rule proposed for adoption.
2. This Section (Procedures for Rule Adoption) concerns only rule-making procedures and is not intended to affect the substantive provisions of any rule proposed for adoption. These procedures are in addition to any other relevant procedural requirements to which the Board or the universities may be subject under Arizona law, such as opening meeting law requirements.

#### B. Definitions

In this Section (Procedures for Rule Adoption), unless the context otherwise requires:

1. "Agenda item" means a specified matter listed on an agenda included as part of the public notice of a Board meeting pursuant to A.R.S. 38-431.02.
2. "Arizona Administrative Code" means Title 41, Chapter 6, Arizona Revised Statutes, as amended.
3. "Board" means the Arizona Board of Regents.
4. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.

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5. "President" or "university president" means the president of a university.
6. "Rule" means a statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the Board or a university. Rule includes the amendment or repeal of a prior rule, but does not include intraagency memoranda.
7. "Rule making" means the process for formulation and adoption of a rule.
8. "University" means a university governed by and under the jurisdiction of the Board.

C. Exemptions

1. This Section (Procedures for Rule Adoption) shall not apply to any rule expressly exempted from the requirements of the Arizona Administrative Code by A.R.S. 41-1005(A), including without limitation any:
  - a. Rule which relates to the use of public works, including sidewalks, streets and highways, under the jurisdiction of the Board or a university if the effect of the rule is indicated to the public by means of signs or signals.
  - b. Rule concerning only the internal management of the Board or a university which does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.
  - c. Rule that only establishes specific prices to be charged for particular goods or services sold by the Board or a university.

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- d. Rule concerning only the physical servicing, maintenance or care of facilities or property owned or operated by the Board or a university.
  - e. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.
2. This Section (Procedures for Rule Adoption) does not apply to any:
- a. Rule for the control of vehicles on property of a university under the Board's jurisdiction which relates to speed, parking, standing, stopping or passing enacted pursuant to A.R.S. 15-1627.
  - b. Fees prescribed by Section 15-1626.
3. This Section (Procedures for Rule Adoption) does not apply to any rule amending the Code of Conduct set forth in Chapter V, Section C of the Board Policy Manual. Any such rule shall be adopted in accordance with the statutory rulemaking procedures prescribed in the Arizona Administrative Code.

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## 1-202 Procedures for Adoption of Rules by the Board

- A. When a rule is proposed to be adopted by the Board, it shall first be presented in writing as a specifically identified agenda item for review at the regular meeting of the Board immediately prior to the regular meeting in which action on the proposed rule is to be taken. At this time, the Board may authorize an oral proceeding separate from any regular meeting of the Board to be held for the purpose of obtaining comment on the proposed rule.
- B. Any person may submit in writing statements, arguments, data and views on the proposed rule to the Secretary to the Board within 20 days after the regular meeting at which the proposed rule is first presented.
- C. If an oral proceeding is authorized, it shall be held no earlier than 20 days after the date on which notice of the time, place and date of the hearing is posted in the lobby of the central office of the Board and no later than the day prior to the regular meeting of the Board in which action on the proposed rule is to be taken. The Board, a member of the Board or official of the Board's central staff designated by the Board shall preside at the oral proceeding. At the oral proceeding, persons may present oral argument, data and views on the proposed rule.
- D. The Secretary to the Board shall cause copies of the proposed rule to be available to each person who makes a timely request for a copy. A charge for the actual cost of providing a copy of the proposed rule may be imposed in accordance with Title 39 of the Arizona Revised Statutes.
- E. Except as provided in Subsection F, action on the proposed rule shall be taken at the next regular meeting of the Board following the meeting at which the proposed rule was presented. At or prior to the meeting, the Board shall be provided with a copy of the proposed rule, an informative summary of the rule, a memorandum summarizing the public comments received (both written and oral), an acknowledgment that the proposed rule has been reviewed and approved by Counsel to the Board, and any other pertinent information.

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- F. If the proposed rule on which action is to be taken is a rule listed in Chapter I, Section 1-204 or is otherwise deemed by the Board to be a rule which directly affects the general public and is in a form substantially different from the proposed rule as presented to the Board at its prior regular meeting, then action on the proposed rule shall be postponed until the next regular meeting of the Board.
1. Within 20 days after the meeting in which action is postponed, any person may submit in writing statements, arguments, data and views on the proposed rule to the Secretary to the Board. An oral proceeding shall be held in accordance with Subsection C when authorized by the Board.
  2. In determining whether a proposed rule on which action is to be taken is in a form substantially different from the proposed rule as initially presented to the Board, all of the following shall be considered:
    - a. The extent to which the subject matter of the proposed rule as initially presented or the issues determined by that rule are different from the subject matter or issues involved in the proposed rule on which action is to be taken by the Board.
    - b. The extent to which the effects of the proposed rule as initially presented differ from the effects of the proposed rule on which action is to be taken by the Board.
    - c. The extent to which persons affected by the rule on which action is to be taken by the Board should have understood that the proposed rule as initially presented would have affected their interests.
  3. In this Subsection F, "general public" means persons other than university students or officers and employees of the Board or any university.
- G. Notice of any rule adopted by the Board shall be included in the first Board newsletter following the meeting in which the rule was adopted.

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H. A rule adopted by the Board is effective as of the date of adoption unless otherwise specified by the Board.

I. Publication of Rules

1. All rules adopted by the Board shall be published in the Board's policy manual.
2. The Policy Manual shall be updated on a bimonthly basis.
3. The Policy Manual shall be made available without charge to the office of the Attorney General, the capitol library, to each university library, and to such other persons as determined by the Executive Director of the Board.
4. Materials updating the Policy Manual shall be distributed to all persons holding a Policy Manual.
5. Copies of any adopted rules shall be made available to any person upon request. A charge for the actual cost of providing a copy of the adopted rule may be imposed in accordance with Title 39 of the Arizona Revised Statutes.

J. Emergency Procedures

Upon a finding by the Board that a rule is necessary as an emergency measure, the rule may be adopted by the Board as an emergency measure without the notice and opportunity for comment prescribed by this Section if the rule is first approved by Counsel to the Board. A rule adopted pursuant to this Subsection is valid for 90 days from the date of the Board meeting on which the rule was adopted.

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### 1-203 Procedures for Adoption of University Rules

- A. Each university president shall submit for approval by the Board proposed procedures to be followed in adopting university rules. University rule-making procedures shall provide adequate and appropriate notice and opportunity for comment on rules proposed for adoption. Upon approval by the Board, such rule-making procedures shall be incorporated in this Chapter I, Section B by reference.
- B. A copy of each university rule adopted in accordance with procedures approved by the Board shall be timely provided to the Secretary to the Board. Such rules shall be maintained by the Secretary to the Board and shall be made available to the public upon request. A charge for the actual cost of providing a copy of any such rule may be imposed in accordance with Title 39 of the Arizona Revised Statutes.

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## 1-204 Rules Directly Affecting the General Public

The following rules are deemed to directly affect the general public:

1. Any rule concerning procurement and purchasing procedures developed in accordance with Title 41, Chapter 23 of the Arizona Revised Statutes.
2. Any rule concerning competition with private enterprise.
3. Any rule concerning parking fees or procedures for enforcement of parking rules and regulations adopted pursuant to A.R.S. 15-1627.
4. Any rule concerning residency classification adopted pursuant to A.R.S. 15-1805.
5. Any rule concerning the WICHE student exchange program authorized by A.R.S.15-1741 et seq.