

TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

(Authority: A.R.S. § 32-3001 et seq.)

Former Article 1 consisting of Sections R4-39-101 through R4-39-111, former Article 2 consisting of Section R4-39-201, former Article 3 consisting of Sections R4-39-301 through R4-39-310, former Article 4 consisting of Sections R4-39-401 through R4-39-403, and former Article 5 consisting of Sections R4-39-501 and R4-39-502 adopted as an emergency effective January 2, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days. Emergency expired.

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ARTICLE 1. DEFINITIONS, LICENSURE, REPORTING

R4-39-101. Definitions

In addition to the definitions in A.R.S. § 32-3001, the following definitions apply in this Chapter unless the context otherwise requires:

1. "Accreditation" has the same meaning as "accredited" in A.R.S. § 32-3001.
2. "Board" means the Arizona State Board for Private Postsecondary Education.
3. "Conditional license" means a non-renewable one-year license issued by the Board to a new private non-accredited vocational institution or a new private non-accredited degree-granting institution.
4. "New," as used in this Section and in R4-39-104 and R4-39-106 means a:
 - a. Private non-accredited vocational institution that has not previously been issued a license by the Board to operate as a private non-accredited vocational institution in this state, or
 - b. Private non-accredited degree-granting institution that has not previously been issued a license by the Board to operate as a private non-accredited degree-granting institution in this state.
5. "Person" has the meaning in A.R.S. § 1-215.
6. "Provisional license" means a renewable one-year license issued by the Board to a private non-accredited degree-granting institution.
7. "Regular license" means a renewable one-year license issued by the Board to a private accredited vocational institution, a private accredited degree-granting institution, or a private non-accredited vocational institution.
8. "Signature" means:
 - a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - b. An "electronic signature" as defined in A.R.S. § 44-7002.
9. "Signing" means the act of providing a signature.
10. "Staff" means an individual employed by or representing a private vocational institution or private degree-granting institution.
11. "Student fees" means charges for registration, admission, tuition financing, or loans incurred by a student or other funding source on behalf of the student.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-102. Licensure and Licensure Procedures

- A.** The Board may issue a conditional, regular, or supplemental license to a private institution to operate vocational programs.
- B.** The Board may issue a conditional, provisional, regular, or supplemental license to a private institution to operate degree programs or grant degrees.
- C.** Licenses are effective for a 12-month period from the date of issuance.
- D.** The Board shall issue the following licenses to private, vocational institutions:
1. An original license of an accredited, private, vocational institution is a regular license to operate vocational programs.
 2. A license renewal of an accredited, private, vocational institution is a regular license to continue to operate vocational programs.
 3. An original license of a new, non-accredited, private, vocational institution is a one-year conditional license to operate vocational programs.
 4. A license renewal of a non-accredited, private, vocational institution is a regular license to continue to operate vocational programs.
- E.** The Board shall issue the following licenses to private, degree-granting institutions:
1. An original license of an accredited, private, degree-granting institution is a regular license to operate degree programs or grant degrees.
 2. A license renewal of an accredited, private, degree-granting institution is a regular license to continue to operate degree programs or grant degrees.
 3. An original license of a new, non-accredited, private, degree-granting institution that complies with the provisions of R4-39-106 is a conditional license to operate degree programs or grant degrees.
 4. A license renewal of a non-accredited, private, degree-granting institution that complies with the provisions of R4-39-107 is a provisional license to continue to operate degree programs or grant degrees.
- F.** For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time-frames:
1. For an original conditional or original regular license application to operate vocational programs or an original regular license application to operate degree programs or grant degrees:
 - a. Administrative completeness review time-frame: 90 days;
 - b. Substantive review time-frame: 90 days;
 - c. Overall time-frame: 180 days.
 2. For a conditional or provisional license application to operate degree programs or grant degrees:
 - a. Administrative completeness review time-frame: 90 days;
 - b. Substantive review time-frame: 150 days;
 - c. Overall time-frame: 240 days.
 3. For a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application:
 - a. Administrative completeness review time-frame: 45 days;
 - b. Substantive review time-frame: 90 days;
 - c. Overall time-frame: 135 days.
- G.** Within 90 days of receiving an original conditional or original regular license application to operate vocational programs or an original regular, original conditional, or provisional license application to operate degree programs or grant degrees, or within 45 days of receiving a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application, the Board shall finish an administrative completeness review.
1. If the application is complete, the Board shall notify the applicant that the application is complete and that the administrative completeness review is finished. The substantive review will begin on the date the notice is served.
 2. If the application is incomplete, the Board shall notify the applicant that the application is incomplete and specify what information is missing and what deficiencies are found in the application. The administrative completeness review time-frame is suspended from the date the notice is served until the applicant provides the Board with a revised application containing all missing information and correcting all deficiencies.
 - a. An applicant with an incomplete application shall submit a revised application within 60 days of receipt of notice.
 - b. If the applicant cannot submit a revised application within 60 days of receipt of notice, the applicant may request an extension of no more than 30 days by submitting a written request, documenting the reasons the applicant is unable to meet the 60-day deadline, to the Board postmarked or delivered with 60 days of receipt of notice.
 - c. The Board shall grant the request for an extension of the 60-day deadline if the Board determines that the extension of the 60-day deadline will enable the applicant to submit a revised application containing all missing information and correcting all deficiencies.
 - d. Upon receipt and review of the revised application, and within the administrative completeness review time-frame, the Board shall notify the applicant that the administrative completeness review is finished. The substantive review will begin on the date the notice is served.
 - e. If the revised application containing all missing information and correcting all deficiencies is not submitted within the 60-day deadline or the time permitted by an extension, the Board shall close the application. An applicant whose application is closed and who later wishes to seek licensure, shall apply anew.
- H.** Within 90 days from the date on which the administrative completeness review of an original conditional or original regular license application to operate vocational programs, an original regular license application to operate degree programs or grant degrees, a regular license renewal application to continue to operate vocational programs, degree programs, or grant degrees or a supplemental license application is finished or within 150 days from the date on which the administrative completeness review of an original conditional or provisional license application to operate degree programs or grant degrees is finished, the Board shall complete a substantive review of the application, which may include an onsite verification, and render a decision.
1. If the Board finds that the applicant meets all requirements defined in statute and rule, the Board shall grant the license.

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2. If the Board finds that the applicant fails to meet all requirements defined in statute and rule, the Board shall deny the license.
3. If the Board finds deficiencies during the substantive review of the application, the Board shall issue a written request, specifying the additional documentation to be submitted and deadline for submission. The time-frame for substantive review of an application is suspended from the date the written request for additional documentation is served until the date that all documentation is received.
4. When the applicant and the Board mutually agree in writing, the Board shall grant extensions of the substantive review time-frame totalling no more than 30 days.
5. If the requested documentation is not submitted by the deadline date, the Board shall close the application. An applicant whose application has been closed and who later wishes to seek licensure, shall apply anew.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective November 14, 1997 (Supp. 97-4).

R4-39-103. Requirements for a Regular License to Operate a Private Accredited Vocational Institution or a Private Accredited Degree-granting Institution in Arizona

- A. A person shall not operate a private accredited vocational institution or a private accredited degree-granting institution without a regular license granted by the Board.
- B. The Board shall not grant a regular license or renewal of a regular license to an applicant if:
 1. Within 10 years before the date of filing an application packet required in subsection (D) or since the start date of the current licensure period, an individual with 20 percent or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Within 10 years before the date of filing an application packet required in subsection (D) or since the start date of the current licensure period, a person with 20 percent or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or in any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- C. The Board shall grant a regular license or renewal of a regular license to an applicant if:
 1. The applicant provides the information required in subsection (D); and
 2. The information provided under subsection (D) demonstrates:
 - a. For a regular license to operate a private accredited vocational institution, compliance with A.R.S. § 32-3021(B)(1) through (9);
 - b. For a regular license to operate a private accredited degree-granting institution, compliance with A.R.S. § 32-3022(B);
 - c. The ability to provide educational services as represented to the public;
 - d. Institutional accreditation or accreditation of each program to be operated; and
 - e. Compliance with all accreditation standards established by each accrediting agency that accredits the applicant's programs or the institution through which the programs are operated.
- D. An applicant for a regular license shall submit to the Board an application packet including:
 1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2) through (D)(6), (D)(8) through (D)(15), and (D)(17);
 3. The name of each accrediting agency that accredits the applicant's programs or the institution through which the programs are operated;
 4. For each accrediting agency named in subsection (D)(3), documentation from the accrediting agency that confirms the current accreditation status of the programs or the institution;
 5. Attestation by the individual signing the application that the applicant complies and will continue to comply with all accreditation standards established by each accrediting agency named in subsection (D)(3);
 6. The name of each federal student financial aid program in which the applicant is eligible to participate;
 7. For each federal student financial aid program named in subsection (D)(6), documentation from the United States Department of Education demonstrating participation in the federal student financial aid program and showing the applicant's student default rate;
 8. Attestation by the individual signing the application that the applicant complies and will continue to comply with all United States Department of Education requirements governing federal student financial aid programs named in subsection (D)(6);
 9. A copy of the applicant's current catalog that meets the accreditation standards established by each accrediting agency named in subsection (D)(3); and
 10. A surety bond, cash deposit, or equivalent security if required under A.R.S. § 32-3023 and R4-39-108.
- E. No later than 60 calendar days before the expiration date of a licensee's current regular license, an applicant for annual renewal of a regular license shall submit to the Board an application packet including:
 1. The filing fee required under R4-39-201; and
 2. The information and documentation required in:
 - a. R4-39-104(D)(2), (D)(4), (D)(5), (D)(9), (D)(10), (D)(14), (D)(15), and (D)(17); and
 - b. Subsections (D)(3) through (D)(10).
- F. A licensee shall:
 1. Notify the Board in writing within 24 hours if the licensee:
 - a. Receives a new grant of accreditation issued by an accrediting agency other than an accrediting agency named under subsection (D)(3); or
 - b. Becomes eligible to participate in a federal student financial aid program other than a federal student financial aid program named under subsection (D)(6).
 2. Notify the Board in writing within 24 hours if the licensee ceases to be accredited by an accrediting agency named under subsection (D)(3);
 3. Notify the Board in writing within 24 hours if the licensee ceases to be eligible to participate in a federal student financial aid program named under subsection (D)(6); and
 4. Notify the Board in writing within 14 calendar days of:
 - a. A change in any grant of accreditation issued by an accrediting agency named under subsection (D)(3) or (F)(1)(a), or

- b. A change in eligibility to participate in a federal student financial aid program named under subsection (D)(6) or (F)(1)(b).
- G.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.
- H.** In addition to the grounds for disciplinary action in A.R.S. §§ 32-3051, the Board shall discipline a licensee that:
1. Violates the requirements in subsection (F);
 2. Intentionally or negligently misrepresents any material information in documents or information presented to the Board.
- Historical Note**
- Adopted effective May 21, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).
- R4-39-104. Requirements for a Conditional License to Operate a New Private Non-accredited Vocational Institution in Arizona**
- A.** A person shall not operate a new private non-accredited vocational institution without a conditional license granted by the Board.
- B.** The Board shall not grant a conditional license to an applicant if:
1. Within 10 years before the date of filing an application packet required in subsection (D), an individual with 20 percent or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Within 10 years before the date of filing an application packet required in subsection (D), a person with 20 percent or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or in any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- C.** The Board shall grant a conditional license to an applicant if:
1. The applicant provides the information required in subsection (D); and
 2. The information provided under subsection (D) demonstrates:
 - a. Compliance with A.R.S. § 32-3021(B)(1) through (9); and
 - b. The ability to provide educational services as represented to the public.
- D.** An applicant for a conditional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. An application form provided by the Board containing:
 - a. The applicant's name, street address, mailing address, telephone number, fax number, e-mail address, and web site address, if applicable;
 - b. If the applicant has a headquarters in another state or jurisdiction, the headquarters' street address, mailing address, telephone number, fax number, and e-mail address;
 - c. Responses to questions regarding the distribution of ownership, business type, and legal structure;
 - d. As applicable, identification of:
 - i. All members of the board of directors or board of trustees,
 - ii. All persons with 20 percent or more ownership in the institution, and
 - iii. All individuals responsible for managing the institution in this state;
 3. Responses to questions regarding whether a person identified in subsection (D)(2)(d) has ever applied for or been issued a license to operate a vocational program, vocational institution, degree program, or degree-granting institution in this state or in any other state or jurisdiction;
 4. Responses to questions regarding the finances, federal or state tax liabilities, management capabilities, and criminal history of the persons identified under subsection (D)(2)(d)(ii);
 5. Responses to questions regarding programs, student recruitment, student enrollment, student retention, student placement, and student financing;
 6. Staffing information including:
 - i. Faculty member qualifications for each program to be operated;
 - ii. Total number of current administrative personnel and faculty members;
 - iii. If applicable, projected number of administrative personnel and faculty members at the end of the first licensure period;
 - iv. The names of all current administrative personnel and faculty members;
 7. Attestation by the individual signing the application that the applicant will comply with all applicable requirements in A.R.S. Title 32, Chapter 30, and this Chapter;
 8. Attestation by the individual signing the application that all information required as part of the application packet has been submitted and is true and accurate; and
 9. The signature of an owner or an owner's legal representative and date of signature;
 10. If applicable, a copy of the applicant's articles of incorporation, partnership or joint venture documents, or limited liability documents;
 11. For each program to be operated, a form provided by the Board describing:
 - a. Program content, length, and delivery system information;
 - b. Program prerequisites and completion requirements;
 - c. Tuition and student fees;
 - d. Any required textbooks or program learning materials;
 - e. Any equipment or technology requirements or competencies;
 - f. As applicable:
 - i. Library resources;
 - ii. Clinical training, practica, externships, internships, or special features;
 - iii. Graduate employment opportunities; and
 - iv. Requirements for a graduate to practice the skill or occupation for which the program prepares the graduate;
 12. A copy of the applicant's student enrollment agreement meeting the requirements in R4-39-401;
 13. A copy of each type of certificate or diploma to be awarded;
 14. A copy of the applicant's catalog meeting the requirements in R4-39-301;

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8. A copy of each brochure, promotional document, or advertisement intended for students or potential students;
 9. A copy of the applicant's published student grievance procedure that:
 - a. Requires that a student grievance be submitted in writing;
 - b. Provides the steps and time lines involved in the grievance procedure;
 - c. References the student's right under A.R.S. § 32-3052 to file a complaint with the Board; and
 - d. Lists the Board's address and telephone number.
 10. An institutional organizational chart including staff names and position titles;
 11. For each individual identified under subsection (D)(2)(d), a form provided by the Board describing the individual's professional and educational background;
 12. For each faculty member named under subsection (D)(2)(h)(iv), a form provided by the Board describing the individual's professional and educational background;
 13. For each location within the state from which the applicant will operate:
 - a. A form provided by the Board describing the facility;
 - b. Line drawings, floor plans, or photographs showing each story of the facility, the room layout, room usage, and each door, window, and exit; and
 - c. Documentation from the local jurisdiction of compliance with all applicable fire codes, local building codes, and zoning ordinances;
 14. Documentation of insurance required under R4-39-108;
 15. Financial statements or financial documentation required under R4-39-108;
 16. A surety bond, cash deposit, or equivalent security as required under A.R.S. § 32-3023 and R4-39-108; and
 17. Other information determined by the Board or the applicant to be relevant to the determination of the applicant's compliance with licensing requirements under this Article.
- E.** Before granting a conditional license, the Board shall conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's place of business to determine compliance with subsection (C).
- F.** While conditionally licensed, a licensee:
1. Shall not describe or refer to itself using the terms "licensed," "approved," or "accredited;" and
 2. May describe or refer to itself using the terms "conditionally licensed" or "conditional license."
- G.** After granting a conditional license, the Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of a licensee's place of business to determine continuing compliance with the requirements of this Article.
- H.** In addition to the grounds for disciplinary action in A.R.S. §§ 32-3051, the Board may discipline a licensee that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.
- Historical Note**
- Adopted effective May 21, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).
- R4-39-105. Requirements for a Regular License to Continue to Operate a Private Non-accredited Vocational Institution in Arizona**
- A.** The Board shall not grant a regular license or renewal of a regular license to an applicant, if:
1. Since the start date of the current licensure period, an individual with 20 percent or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Since the start date of the current licensure period, a person with 20 percent or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- B.** The Board shall grant a regular license or renewal of a regular license to an applicant if:
1. The applicant provides the information required in subsection (C) or (D); and
 2. The information provided demonstrates:
 - a. Compliance with A.R.S. § 32-3021(B)(1) through (9); and
 - b. The ability to provide educational services as represented to the public.
- C.** No later than 60 calendar days before the expiration date of a licensee's conditional license, an applicant for a regular license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201; and
 2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5), (D)(7), (D)(9), (D)(10), and (D)(14) through (D)(17).
- D.** No later than 60 calendar days before the expiration date of the applicant's regular license, an applicant for renewal of a regular license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201; and
 2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5), (D)(7), (D)(9), (D)(10), and (D)(14) through (D)(17).
- E.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.
- F.** In addition to the grounds for disciplinary action in A.R.S. § 32-3051, the Board may discipline a licensee that intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.
- Historical Note**
- Adopted effective June 27, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).
- R4-39-106. Requirements for a Conditional License to Operate a New Private Non-accredited Degree-granting Institution in Arizona**
- A.** A person shall not operate a new private non-accredited degree-granting institution without a conditional license granted by the Board.
- B.** The Board shall not grant a conditional license to an applicant, if:
1. Within 10 years before the date of filing an application packet required in subsection (D), an individual with 20 percent or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an

- educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
2. Within 10 years before the date of filing an application packet required in subsection (D), a person with 20 percent or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- C.** The Board shall grant a conditional license to an applicant if:
1. The applicant provides the information required in subsection (D); and
 2. The information provided demonstrates:
 - a. Compliance with A.R.S. § 32-3022(C); and
 - b. The ability to provide educational services as represented to the public.
- D.** An applicant for a conditional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2) through (D)(17);
 3. The name of each accrediting agency to which the applicant will apply for accreditation of the applicant's programs or the institution through which the programs are operated;
 4. For each accrediting agency named under subsection (D)(3), attestation by the individual signing the application that the applicant has read and understands documentation published or provided by the accrediting agency that explains the accrediting agency's accreditation process, including eligibility requirements, application procedures, self-evaluation processes and requirements, accreditation criteria or standards, and accrediting team visits;
 5. A chronological timeline identifying the applicant's projected progress in gaining accreditation from each accrediting agency named under subsection (D)(3); and
 6. On a form provided by the Board, responses to questions regarding the applicant's ability to gain accreditation from each accrediting agency named under subsection (D)(3).
- E.** A licensee shall:
1. Notify the Board in writing within 24 hours if the licensee:
 - a. Is determined by an accrediting agency named under subsection (D)(3) to be ineligible to apply for accreditation with the accrediting agency;
 - b. Is precluded from initiating or continuing in the accreditation process by an accrediting agency named under subsection (D)(3); or
 - c. Is denied accreditation by an accrediting agency named under subsection (D)(3);
 2. Within five calendar days of receipt, submit to the Board a copy of any document from an accrediting agency named under subsection (D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency; and
 3. Within five calendar days of mailing or sending, submit to the Board a copy of any document mailed or sent by the licensee to an accrediting agency named under subsection (D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency.
- F.** Before granting a conditional license, the Board shall conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's place of business to determine compliance with subsection (C).
- G.** While conditionally licensed, a licensee:
1. Shall not describe or refer to itself using the terms "licensed," "approved," or "accredited;" and
 2. May describe or refer to itself using the terms "conditionally licensed" or "conditional license."
- H.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of a licensee's place of business to determine compliance with the requirements of this Article.
- I.** In addition to the grounds for disciplinary action in A.R.S. § 32-3051, the Board may discipline a licensee that:
1. Violates the requirements in subsection (E), or
 2. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective October 10, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-107. Requirements for a Provisional License to Continue to Operate a Private Non-accredited Degree-granting Institution in Arizona

- A.** The Board shall not grant a provisional license or renewal of a provisional license to an applicant if:
1. Since the start date of the current licensure period, an individual with 20 percent or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Since the start date of the current licensure period, a person with 20 percent or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in this state or any other state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- B.** The Board shall grant a provisional license or renewal of a provisional license to an applicant if:
1. The applicant provides the information required in subsection (C) or (D); and
 2. The information provided demonstrates:
 - a. Compliance with A.R.S. § 32-3022(C);
 - b. The ability to provide educational services as represented to the public; and
 - c. Progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3).
- C.** No later than 60 calendar days before the expiration date of a licensee's conditional license, an applicant for a provisional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5) through (D)(10), and (D)(14) through (D)(17);
 3. A chronological timeline identifying the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3);
 4. On a form provided by the Board, responses to questions regarding the applicant's continued progress in gaining

- accreditation from each accrediting agency named under R4-39-106(D)(3); and
5. Copies of application documents submitted to an accrediting agency named under R4-39-106(D)(3), if applicable.
- D.** No later than 60 calendar days before the expiration date of a licensee's provisional license, an applicant for renewal of a provisional license shall submit to the Board an application packet including:
1. The filing fee required under R4-39-201;
 2. The information and documentation required in R4-39-104(D)(2), (D)(4), (D)(5) through (D)(10), and (D)(14) through (D)(17);
 3. A chronological timeline identifying the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3);
 4. On a form provided by the Board, responses to questions regarding the applicant's continued progress in gaining accreditation from each accrediting agency named under R4-39-106(D)(3);
 5. Copies of application documents submitted to an accrediting agency named under R4-39-106(D)(3), if applicable; and
 6. Documentation from each accrediting agency named under R4-39-106(D)(3) that demonstrates that the applicant is actively seeking accreditation.
- E.** A licensee shall:
1. Notify the Board in writing within 24 hours if the licensee:
 - a. Is determined by an accrediting agency named under R4-39-106(D)(3) to be ineligible to apply for accreditation with the accrediting agency;
 - b. Is precluded from initiating or continuing in the accreditation process by an accrediting agency named under R4-39-106(D)(3); or
 - c. Is denied accreditation by an accrediting agency named under R4-39-106(D)(3);
 2. Within five calendar days of receipt, submit to the Board a copy of any document from an accrediting agency named under R4-39-106(D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency; and
 3. Within five calendar days of mailing or sending, submit to the Board a copy of any document mailed or sent to an accrediting agency named under R4-39-106(D)(3) that pertains to the licensee's progress in gaining accreditation from the accrediting agency.
- F.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.
- G.** In addition to the grounds for disciplinary action in A.R.S. § 32-3051, the Board may discipline a licensee that:
1. Violates the requirements in subsection (E), or
 2. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Amended effective October 10, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-108. Surety Bond, Cash Deposit, or Equivalent Security Requirements; Insurance Requirements; Financial Statement Requirements

- A.** A person applying for a license and a person licensed under R4-39-104, R4-39-105, R4-39-106, R4-39-107, or R4-39-110(E) shall have a surety bond, cash deposit, or equivalent security as required pursuant to A.R.S. § 32-3023. The Board shall determine the dollar amount of the surety bond, cash deposit, or equivalent security pursuant to A.R.S. § 32-3023(C).
- B.** The Board may require that a person applying for a license or a person licensed under R4-39-103 or R4-39-110(D) have a surety bond, cash deposit, or equivalent security as required pursuant to A.R.S. § 32-3023. The Board shall determine whether a surety bond, cash deposit, or equivalent security is required and if so, the dollar amount of the surety bond, cash deposit, or equivalent security pursuant to A.R.S. § 32-3023(C).
- C.** A person applying for a license or a person licensed under this Article shall:
1. Have and maintain with an insurance company authorized to transact business in this state coverage that complies with R4-39-302(4) and:
 - a. A minimum single occurrence malpractice or professional liability coverage of \$1,000,000; and
 - b. A minimum single occurrence general liability coverage of \$1,000,000 for the operation of the institution; or
 2. Be self-insured for the amounts in subsection (C)(1).
- D.** A person applying for a license or renewal of a license shall submit with the license or renewal application:
1. Financial statements that are prepared and signed by an independent, certified public accountant currently licensed by the Arizona State Board of Accountancy or by the accountancy board in the state of the applicant's or licensee's headquarters;
 2. Financial statements that are prepared and compiled, reviewed, or audited in accordance with generally accepted accounting principals; and
 3. Additional financial information if required by the Board under subsection (E) or (F).
- E.** The Board shall require that a person applying for a license or renewal under this Article submit additional financial documentation if:
1. The financial statements are for a reporting period that ended more than six months before the date of license application; or
 2. The applicant has not previously operated in this state or any other state or jurisdiction.
- F.** The Board may require that a person applying for a license or renewal under this Article submit additional financial documentation based upon the applicant's responses to questions on a license application regarding the applicant's distribution of ownership, business type, and legal structure.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective November 6, 1998 (Supp. 98-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-109. Supplemental License Applications

- A.** A private vocational or degree-granting institution shall submit to the Board an application for a supplemental license for approval of any additional vocational program, degree program, change of location or change of name of the institution at least 45 days before:

1. Operating an unlicensed, new, or additional vocational or degree-granting program; or
 2. Operating from an unlicensed, new or additional location; or
 3. Changing the name of the licensed institution.
- B.** The Board shall grant a supplemental license to a private vocational or degree-granting institution if the institution demonstrates that a supplemental license application submitted under subsection (A) is in compliance with A.R.S. §§ 32-3021 through 32-3051.
- Historical Note**
- Adopted effective May 21, 1985 (Supp. 85-3). Section R4-39-109 repealed; new Section R4-39-109 renumbered from R4-39-110 and amended effective November 6, 1998 (Supp. 98-4).
- R4-39-110. Change of Ownership or Control**
- A.** In this Section, "change of ownership or control" means:
1. For a privately held corporation whose control is vested in those who control the voting stock of the corporation, 50 percent or more of the voting stock changes within a five-year period;
 2. For a publicly traded corporation whose control is vested in the voting members of the board of directors:
 - a. Fifty percent or more of the voting members of the board of directors change within a 12-month period, or
 - b. The chief executive officer of the corporation changes;
 3. For a non-profit corporation whose control is vested in the voting members of the board of directors:
 - a. Fifty percent or more of the voting members of the board of directors change within a 12-month period, or
 - b. The chief executive officer of the corporation changes;
 4. For a limited partnership whose control is vested in a corporate general partner, if under subsections (A)(1), (A)(2), or (A)(3), the corporate general partner has a change of ownership or control;
 5. For a limited liability company whose control is vested in members who control a majority of the interest in the company, if 50 percent or more interest changes within a 12-month period; or
 6. For a sole proprietor, if 50 percent or more interest changes within a five-year period.
- B.** In determining whether a change of ownership or control has occurred, the Board shall deem that a change of ownership or control has not occurred if the interest is transferred by operation of law or inheritance to a parent, grandparent, spouse, or child.
- C.** A licensee shall:
1. No later than seven calendar days after change of ownership or control, notify the Board in writing of the change of ownership or control; and
 2. No later than seven calendar days after any change of interest or change of the voting members of the board of directors of more than 20 percent but less than 50 percent, notify the Board in writing of the change.
- D.** No later than 60 calendar days after a change of ownership or control, a licensed private accredited institution shall submit to the Board a license application packet including:
1. The filing fee required under R4-39-201(E);
 2. Either:
 - a. Information and documentation specified in R4-39-103(D)(5), (D)(8), (D)(9) and (D)(10) and R4-39-104(D)(2), (D)(3), (D)(5), (D)(7) through (D)(11), (D)(14) and (D)(15); or
 - b. If required by an accrediting agency that accredits the licensee's programs or the institution through which the programs are operated, a copy of change of ownership documents submitted by the licensee to the accrediting agency;
 3. Attestation that the applicant will assume financial responsibility for the payment of all student tuition refunds for which the institution has an obligation; and
 4. Other information determined by the Board to be relevant to the determination of the applicant's compliance with licensing requirements under this Article.
- E.** No later than 60 calendar days after a change of ownership or control, a licensed private non-accredited institution shall submit to the Board a license application packet, including:
1. The filing fee required under R4-39-201(E);
 2. For a private non-accredited vocational institution, information and documentation specified in R4-39-104(D)(2), (D)(3), (D)(5), (D)(7) through (D)(11), and (D)(14) through (D)(16);
 3. For a private non-accredited degree-granting institution, information, documentation, and fees specified in R4-39-107(C)(4) and R4-39-104(D)(2), (D)(3), (D)(5), (D)(7) through (D)(11), and (D)(14) through (D)(16);
 4. Attestation that the applicant will assume financial responsibility for all student refunds for which the institution has a financial obligation; and
 5. Other information determined by the Board to be relevant to the determination of the applicant's compliance with licensing requirements under this Article.
- F.** The Board shall not grant a license for a change of ownership or control to an applicant if:
1. Within 10 years before the date of filing an application packet required in subsections (D) or (E) or since the start date of the current licensure period, an individual with 20 percent or more ownership in the applicant institution has been convicted in this state or any other state or jurisdiction of a felony or any crime related to the operation of an educational institution, unless the conviction has been absolutely discharged, expunged, or vacated;
 2. Within 10 years before the date of filing an application packet required in subsections (D) or (E) or since the start date of the current licensure period, a person with 20 percent or more ownership in the applicant institution has had a license to operate a vocational program, vocational institution, degree program, or degree-granting institution revoked in Arizona or in any state or jurisdiction; or
 3. The applicant provides false or misleading information on or with an application required by this Section.
- G.** The Board shall grant a license for a change of ownership or control to an applicant, if the applicant:
1. Demonstrates compliance with A.R.S. §§ 32-3021 through 32-3027, as applicable; and
 2. Meets the application requirements in subsection (D) or (E).
- H.** The Board may conduct an inspection, pursuant to A.R.S. § 41-1009, of an applicant's or a licensee's place of business to determine compliance with the requirements of this Article.
- Historical Note**
- Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). R4-39-110 renumbered to R4-39-109; new Section R4-39-110 renumbered from R4-39-111 and amended (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-111. Honorary Degrees

- A. Only currently licensed, accredited private degree-granting institutions may apply to award honorary degrees. A currently licensed, accredited private degree-granting institution shall submit an application for a supplemental license for an honorary degree to the Board for verification, review, and administrative action before offering to grant or granting an honorary degree.
- B. The Board shall approve the application for a supplemental license application for an honorary degree if the honorary degree is consistent with the institution's currently licensed degree-granting programs.
- C. An honorary degree shall identify in its title or name that it is an honorary degree and shall bear on its face the denotation that it is an honorary degree.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). R4-39-111 renumbered to R4-39-110; new Section R4-39-111 renumbered from R4-39-112 and amended effective November 6, 1998 (Supp. 98-4).

R4-39-112. Repealed**Historical Note**

Adopted effective May 21, 1985 (Supp. 85-3). Repealed effective November 6, 1998 (Supp. 98-4).

ARTICLE 2. FEES**R4-39-201. Fees**

- A. The filing fee for an original license to operate private vocational or degree-granting programs is \$800.
- B. The annual filing fee for a license renewal to continue to operate private vocational or degree-granting programs is the following amount based upon annual gross tuition revenues:
1. Less than \$50,000 annual gross tuition revenue, \$600.
 2. \$50,000/\$249,999 annual gross tuition revenue, \$750.
 3. \$250,000/\$499,999 annual gross tuition revenue, \$1,000.
 4. \$500,000/\$999,999 annual gross tuition revenue, \$1,300.
 5. \$1,000,000/\$2,499,999 annual gross tuition revenue, \$1,650.
 6. \$2,500,000/\$6,999,999 annual gross tuition revenue, \$2,000.
 7. \$7,000,000 or more annual gross tuition revenue, \$2,300.
- C. The filing fee for each application for a supplemental license to operate new or additional private vocational or degree-granting programs is \$500.
- D. The filing fee for each application for a supplemental license to operate private vocational or degree-granting programs from a new location or an additional location is \$500.
- E. The filing fee for an application for a supplemental license to continue to operate private vocational or degree-granting programs upon a change of ownership is \$500.
- F. The fee for an onsite verification, inspection, or investigation is the actual cost incurred or \$500, whichever is less.

Historical Note

Adopted effective June 27, 1985 (Supp. 85-3). Section R4-39-201 repealed, new Section R4-39-201 adopted effective May 19, 1988 (Supp. 88-2). Emergency amendments adopted effective January 12, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-1). Emergency amendments adopted again effective April 12, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-2). Emergency amendments adopted again effective July 12, 1993 (Supp. 93-3). Amendments permanently adopted with changes effective October 12, 1993 (Supp. 93-4). Amended effective November 6, 1998

(Supp. 98-4).

ARTICLE 3. OPERATION OF PRIVATE NON-ACCREDITED INSTITUTIONS**R4-39-301. Catalog**

- A. A person operating a licensed private non-accredited institution shall ensure that the institution has a catalog that includes the following information:
1. The institution's name, street address, mailing address, telephone number, fax number, e-mail address, and web site address if applicable;
 2. If the institution has a headquarters in another state or jurisdiction, the headquarters' street address, mailing address, telephone number, fax number, e-mail address, and web site address;
 3. The effective date of the catalog;
 4. The names and titles of:
 - a. All members of any board of directors or board of trustees,
 - b. All individuals responsible for managing the institution in this state, and
 - c. All persons with 20 percent or more ownership in the institution;
 5. A list of all programs operated by the institution;
 6. For each program to be operated:
 - a. A topical outline, including a statement of purpose, objectives, subjects, units, skills, and jobs to be learned in the program, and the number of clock, credit, or semester hours to be spent by the student in each phase of the program;
 - b. Any program prerequisites and completion requirements;
 - c. Tuition and student fees;
 - d. Any required textbooks or program learning materials;
 - e. Any equipment or technology requirements or competencies;
 - f. Any library resources;
 - g. Any clinical training, practica, externships, internships, or special features;
 - h. Any graduate employment opportunities; and
 - i. Any requirements for a graduate to practice;
 7. Any allowable student tuition reductions, tuition discounts, tuition scholarships, and educational loans that comply with R4-39-308;
 8. Any available student payment schedules and financing options that comply with R4-39-308;
 9. Student eligibility requirements for tuition reductions, tuition discounts, tuition scholarships, educational loans, payment schedules, and financing options, if applicable;
 10. Institutional refund policies that comply with R4-39-308 and R4-39-404;
 11. Any student services provided by the institution;
 12. A description of each educational delivery system available, including classroom-based instruction, directed study, distance education, and online computer-based learning.
 13. For institutions operating on an academic calendar, identification of:
 - a. Start and end dates for each semester, quarter, term, or session offered; and
 - b. Vacation periods and holidays; and
 14. Policies and regulations governing:
 - a. Admission requirements or program registration;
 - b. Program or course cancellation;
 - c. Grading procedures or progress tracking;

- d. Change in student status;
 - e. Student readmission;
 - f. Student probation, suspension, or expulsion;
 - g. Grade reports and transcripts; and
 - h. As applicable:
 - i. Student attendance; and
 - ii. Credit for previous education, training, work, or life experience.
- B.** A person operating a licensed private non-accredited institution shall make a catalog available to students and prospective students in a written or electronic format.
- C.** Within 10 calendar days from the date a licensed private non-accredited institution revises a catalog or publishes a new catalog, the licensed private non-accredited institution shall submit to the Board a written or electronic copy of the revised or new catalog.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-302. Facilities and Equipment

A person operating a licensed private non-accredited institution shall ensure that the:

1. Building, classrooms, equipment, furniture, grounds, instructional devices, and other physical facilities of the institution are appropriate to achieve the educational objectives of the institution;
2. Physical facility and equipment meet all safety requirements and health standards of the city, county, state, and any other authority in which the facility is located;
3. Physical facility and equipment comply with local and state laws for planning, building, zoning, and fire codes;
4. Insurance required under R4-39-108 is adequate to protect the assets of the institution in the event of damage or a finding of liability; and
5. Board is notified of a change of location as required in R4-39-109.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-303. Staff

- A.** A person operating a licensed private non-accredited institution shall ensure that:
1. The institution has a local administrator designated to carry out the duties under subsection (B);
 2. Each staff member communicates information regarding the institution, the institution's programs, and the institution's educational services that is true and is as represented in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, or advertisements provided to or intended for students or potential students;
 3. The institution has sufficient staff to provide instruction and educational services as represented in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, or advertisements provided to or intended for students or potential students; and
 4. Instruction and services are provided to a student as represented in the institution's catalog, required under R4-39-301, and any brochures, promotional materials, or advertisements provided to the student.

- B.** An administrator designated under subsection (A)(1) shall:
1. Supervise the day-to-day operation of the institution;
 2. For each program to be operated by the institution, develop and implement a curriculum capable of preparing a student enrolled in the program for the program degree, the program credential, the program's occupational objective, or a specific entry-level job covered in the program; and
 3. Ensure that all faculty members meet the requirements in subsection (C) or (D).
- C.** A person operating a licensed private non-accredited institution shall ensure that a faculty member for a private non-accredited vocational institution has at least:
1. Two years of practical work experience in the subject the faculty member is teaching; and
 2. Postsecondary education in the subject the faculty member is teaching from an accredited institution or an institution licensed to operate as a postsecondary educational institution by the state in which the faculty member received the postsecondary education.
- D.** A person operating a licensed private non-accredited institution shall ensure that a faculty member for a private non-accredited degree-granting institution has at least:
1. Two years of practical work experience in the subject the faculty member is teaching; and
 2. A degree from an accredited institution equal to or exceeding the degree awarded to a graduate of the program in which the faculty member is teaching.
- E.** A person operating a licensed private non-accredited institution shall ensure that:
1. Within 10 calendar days from the date the institution's administrator resigns, is terminated, or is otherwise unable to fulfill all responsibilities established under subsection (B), the Board is notified in writing;
 2. Within 10 calendar days from the date the institution employs a new administrator, a completed form provided by the Board describing the individual's professional and educational background is submitted to the Board; and
 3. Within 10 calendar days from the date the institution employs a new faculty member, a completed form provided by the Board describing the individual's professional and educational background is submitted to the Board.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-304. Advertising

- A.** Advertising shall be truthful and shall not include false or misleading statements about the institution, personnel, the faculty, courses, services, or occupational opportunities for a graduate.
- B.** The Board may institute disciplinary proceedings against a non-accredited private vocational or degree-granting institution or an institutional representative for false or misleading advertising.
- C.** A non-accredited private vocational or degree-granting institution shall not solicit students in the "help wanted" section of a newspaper, magazine, or other similar publication.
- D.** A non-accredited private vocational or degree-granting institution shall not use the words "guarantee" or "free" in solicitations or advertising in any brochure, catalog, bulletin, leaflet, or other publication of the institution, nor in a newspaper, magazine, or any other media.

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- E. All printed advertising shall include the name, phone number, and address of the institution.
- F. The Board may require a non-accredited private vocational or degree-granting institution to submit all advertising for approval prior to publication.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Former Section R4-39-304 repealed; new Section R4-39-304 renumbered from R4-39-305 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-305. Recruitment

- A. A person operating a licensed private non-accredited institution shall ensure that all information contained in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, and advertisements provided to or intended for students or potential students is true.
- B. During student recruitment or before a student signs an enrollment agreement, a licensed private non-accredited institution:
 1. May allow a student tuition reduction, tuition discount, tuition scholarship, or educational loan only as authorized under R4-39-308; and
 2. Shall not guarantee employment to a prospective student.
- C. A person operating a licensed private non-accredited institution shall ensure that a staff member responsible for student recruitment or student admission:
 1. Uses only those titles that accurately reflect the staff member's actual duties and responsibilities;
 2. Is not designated as a counselor or advisor; and
 3. Does not make final decisions regarding tuition, student fees, tuition reduction, tuition discounts, tuition scholarships, educational loans, payment schedules, financing options, or refund policies.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Former Section R4-39-305 renumbered to R4-39-304; new Section R4-39-305 renumbered from R4-39-306 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-306. Admission Requirements

- A. The institution shall publish and administer admission requirements.
- B. If an entrance exam is required, the non-accredited private vocational or degree-granting institution shall:
 1. Set a minimum passing score for admission;
 2. Admit only a student who has obtained the minimum passing score on the entrance exam; and
 3. Maintain a copy of the completed entrance exam in the student's permanent record.
- C. If an entrance exam is not required, the non-accredited private vocational or degree-granting institution shall admit only a student who demonstrates the ability to satisfactorily complete the prescribed training through:
 1. Initial interview;
 2. Letter of recommendation;
 3. High School Diploma or a General Educational Development test;
 4. Official educational transcripts; or
 5. Other requirements established by the institution.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Former

Section R4-39-306 renumbered to R4-39-305; new Section R4-39-306 renumbered from R4-39-307 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-307. Placement

If the non-accredited private vocational or degree-granting institution offers placement services to a student, the following requirements shall apply:

1. The institution shall maintain evidence of a student referral for job placement and shall include the following:
 - a. The name of the student referred.
 - b. The name of the prospective employer.
 - c. Result of referral.
 - d. Final placement or other disposition.
2. The non-accredited private vocational or degree-granting institution shall prepare a student for placement by:
 - a. Instructing the student in resume preparation and interviewing procedures;
 - b. Instructing the student in the appropriate dress and personal grooming;
 - c. Instructing the student in conduct on the job.
3. A list of potential employers given to a student or graduate by the institution shall not be considered a referral or offer of placement.
4. Each student application shall contain a disclaimer by the institution that job placement is not guaranteed to a graduate or student.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Former Section R4-39-307 renumbered to R4-39-306; new Section R4-39-307 renumbered from R4-39-308 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-308. Tuition, Pricing, and Refund Policies

- A. A person operating a licensed private non-accredited institution may charge students enrolled in the same program different tuition and student fees, only:
 1. Following a published notice of a program price change to be effective on a specified date for all students enrolling in the program on or after the specified date;
 2. For students who have chosen to modify programs or services so that a tuition reduction is warranted;
 3. For students incurring additional charges or who are eligible for tuition reductions associated with payment schedules, financing options, or educational loans;
 4. For students meeting tuition discount eligibility requirements in subsection (B); and
 5. For students receiving tuition scholarships under subsection (C).
- B. A person operating a licensed private non-accredited institution that offers tuition discounts shall:
 1. Publish in the institution's catalog allowable tuition discounts and student eligibility requirements for allowable tuition discounts, including tuition discounts for students:
 - a. Enrolling as part of a group,
 - b. Who are similarly situated, or
 - c. Enrolling under the same program schedule or course schedule; and
 2. Make tuition discounts available to all students who meet eligibility requirements.
- C. A person operating a licensed private non-accredited institution that offers full or partial tuition scholarships shall:
 1. Publish in the institution's catalog available tuition scholarships and student eligibility requirements for available

- tuition scholarships, including terms, conditions, application procedures, deadline dates, basis for selection, range of award amounts, and aggregate award amounts; and
2. Objectively evaluate all applicants for tuition scholarships, and award tuition scholarships only to students who meet eligibility requirements.
- D.** A person operating a licensed private non-accredited institution that offers full or partial educational loans shall:
1. Publish in the institution's catalog available full or partial educational loans and student eligibility requirements for available full or partial educational loans, including terms, conditions, application procedures, deadline dates, range of loan amounts, aggregate loan amounts, interest rates, and loan repayment requirements;
 2. Make the full or partial educational loans available to all students who meet eligibility requirements; and
 3. Offer and administer the full or partial educational loans as required under R4-39-406.
- E.** A person operating a licensed private non-accredited institution that offers payment schedules or financing options shall:
1. Publish in the institution's catalog payment schedules and financing options and student eligibility requirements for payment schedules and financing options, including terms and conditions, application procedures, interest rates, and monthly payments; and
 2. Make the payment schedules and financing options available to all students who meet eligibility requirements.
- F.** A person operating a licensed private non-accredited institution:
1. Shall not require a prospective student to make a non-refundable payment until the prospective student signs an enrollment agreement and is accepted for enrollment, and
 2. Shall ensure that a prospective student understands the prospective student's rights under R4-39-404.
- G.** A person operating a licensed private non-accredited institution shall have a refund policy that:
1. Is applicable to all students, and
 2. Meets the requirements in R4-39-404.
- H.** A person operating a licensed private non-accredited institution shall ensure that all student tuition, student fees, tuition reductions, tuition discounts, tuition scholarships, educational loans, payment schedules, financing options, and refund policies applicable to a student are:
1. Fully disclosed in writing on a student's enrollment agreement or applicable financial documents;
 2. Consistent with information in the institution's catalog, required under R4-39-301, and in any brochures, promotional materials, or advertisements provided to or intended for students or potential students; and
 3. Authorized pursuant to this Section.
- I.** A person operating a licensed private non-accredited institution shall:
1. Charge a student tuition and student fees as identified in writing on a student's enrollment agreement or applicable financial documents;
 2. Collect tuition and student fees from a student according to a payment schedule or financing option identified in writing on a student's enrollment agreement or applicable financial documents; and
 3. Refund tuition and student fees charged to a student according to the refund policy identified in writing on a student's enrollment agreement or applicable financial documents.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Former Section

R4-39-308 renumbered to R4-39-307; new Section R4-39-308 renumbered from R4-39-309 and amended by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-309. Renumbered**Historical Note**

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Section renumbered to R4-39-308 by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

R4-39-310. Repealed**Historical Note**

Adopted effective May 21, 1985 (Supp. 85-3). Section repealed by final rulemaking at 5 A.A.R. 4451, effective November 3, 1999 (Supp. 99-4).

ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS**R4-39-401. Student Records**

- A.** An institution shall maintain complete and accurate records for each student currently enrolled, including:
1. An enrollment agreement containing, but not limited to the following information:
 - a. Name and address of student;
 - b. Commencement date of program;
 - c. Title of the course or courses within the program;
 - d. Total clock and credit hours of the program;
 - e. Payment schedule and total cost to the student;
 - f. Refund policy of the institution;
 - g. A statement indicating that the individual signing the agreement has read and understands all aspects of the agreement;
 - h. The holder in due course rule as defined in A.R.S. § 47-3302;
 - i. A disclaimer by the institution that "job placement" is not guaranteed to graduates upon completion of this training or upon graduation;
 - j. Student grievance procedures, if not printed in a catalog, bulletin, or other document provided each prospective student; and
 - k. A cancellation notice in accordance with Federal Trade Commission (FTC) regulations.
 - l. Signature of the student and an official of the institution;
 2. Copy of the entrance exam, if applicable;
 3. A transcript;
 4. Grades received, where applicable;
 5. Student attendance information;
 6. Counseling records;
 7. Financial aid records for a length of time as required by the U.S. Department of Education; and
 8. All obligations incurred and all funds paid by the student to the institution.
- B.** An institution shall make student records available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the Board.
- C.** An institution that gives credit toward a course based upon prior job experience, training, or life experience shall record that credit in the institution's records relating to the student and in the student's official transcript and list the portion of the course for which the student is given credit. The institution shall attach a copy of the transcript reflecting courses for which the student is given credit for prior job experience,

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training, or life experience to the institution's official transcript and shall retain the transcript as part of the student's permanent records.

- D.** In addition to subsections (A), (B), and (C), an institution shall include the following in the record of a student who graduates:
1. Class rank upon graduating, where applicable.
 2. Job placement provided, where applicable.
 3. Place of employment and beginning salary after graduation, where applicable.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 6 A.A.R. 1129, effective March 7, 2000 (Supp. 00-1).

R4-39-402. Preservation of Records

No more than 15 calendar days after a licensee ceases operation, the licensee shall submit to the Board legible copies of all student records required in R4-39-401.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Amended by final rulemaking at 11 A.A.R. 2262, effective August 6, 2005 (Supp. 05-2).

R4-39-403. Student Complaint Procedures

- A.** If a student has a complaint against a licensed institution or program and exhausts all available grievance procedures established by the institution, the student may file a written complaint with the Board. A complaint must be filed within three years of the student's last date of attendance.
- B.** The Board's staff shall investigate the complaint. Upon completion of Board staff's investigation, the complaint shall be referred to the Complaint Committee for a review and recommendation to the Board.
- C.** After a review of the student complaint, the Complaint Committee shall:
1. Determine that the student complaint needs further investigation. Based upon the outcome of the investigation, the complaint may be re-heard by the Complaint Committee or referred to the Board;
 2. Determine that the student complaint does not demonstrate that a violation of statute or rule occurred and recommend to the Board that the complaint be dismissed; or
 3. Determine that the complaint demonstrates that a violation of statute or rule occurred and send a report of its findings and recommendation to the Board.
- D.** Upon receipt of the Complaint Committee's findings and recommendation, the Board shall affirm, reverse, adopt, modify, supplement, amend, or reject the report, in whole or in part, and determine there are reasonable grounds that the complaint demonstrates a violation of Board statutes and rules.
- E.** If the Board determines there are reasonable grounds to believe that the complaint demonstrates a violation of Board statute or rules, the Board shall set the matter for hearing under A.R.S. § 41-1092 et seq.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended by final rulemaking at 6 A.A.R. 1129, effective March 7, 2000 (Supp. 00-1).

R4-39-404. Tuition Refund Policy

- A.** A licensee shall allow a student or prospective student to cancel an enrollment agreement with the licensee if the student or prospective student submits a written notice of cancellation to the licensee within three days, excluding Saturday, Sunday,

and state and federal holidays, of signing the enrollment agreement.

- B.** No later than 30 calendar days after a licensee receives a written notice of cancellation described in subsection (A), the licensee shall provide to the student or to the person who paid the student's tuition and fees a refund of 100 percent of all student fees and tuition paid for the student.
- C.** A person operating a licensed private accredited institution shall develop and implement policies and procedures for cancellations and tuition refunds that:
1. Are published in the institution catalog or enrollment agreement;
 2. Are applicable to all students; and
 3. Comply with:
 - a. Accreditation standards established by each accrediting agency named under R4-39-103(D)(3) or (F)(1)(a); and
 - b. United States Department of Education requirements governing each federal student financial aid program named under R4-39-103(D)(6) or (F)(1)(b).
- D.** A person operating a licensed private non-accredited institution shall develop and implement policies and procedures for cancellations and tuition refunds that:
1. Are published in the institution catalog or enrollment agreement;
 2. Are applicable to all students;
 3. Establish time periods for each program that:
 - a. Have a prescribed student tuition obligation and tuition refund calculation; and
 - b. Do not exceed the full length of the program or one calendar year, whichever is less;
 4. Allow an institution to retain an administrative fee or registration fee not to exceed \$200.00 if the fee is published in the institution catalog or contained in the enrollment agreement;
 5. Provide for the following refunds for a student who withdraws from or is terminated by an institution:
 - a. Before beginning classes in a time period, a refund of 100 percent of the tuition charges for the time period;
 - b. If 10 percent or less of the time period has expired, a refund of at least 90 percent of the tuition charges for the time period;
 - c. If more than 10 percent but less than or equal to 20 percent of the time period has expired, a refund of at least 80 percent of the tuition charges for the time period;
 - d. If more than 20 percent but less than or equal to 30 percent of the time period has expired, a refund of at least 70 percent of the tuition charges for the time period;
 - e. If more than 30 percent but less than or equal to 40 percent of the time period has expired, a refund of at least 60 percent of the tuition charges for the time period;
 - f. If more than 40 percent but less than or equal to 50 percent of the time period has expired, a refund of at least 50 percent of the tuition charges for the time period; and
 - g. If more than 50 percent of the time period has expired, no refund or a refund in an amount determined by the institution.
- E.** When calculating refunds under subsection (D)(5), an institution shall:
1. Use the last date of attendance as the date of withdrawal or termination;

2. Determine that a student has withdrawn from an institution if the student has not attended any class for 30 consecutive scheduled class days; and
 3. Base the percentage of the time period expired on the time elapsed in the time period or on the number of semester, quarter, trimester, or clock hours completed in the time period.
- F.** A program is exempt from subsection (D)(5) if the program:
1. Is less than 100 clock hours,
 2. Has a total cost of less than \$1000, and
 3. Is provided by a private non-accredited vocational institution or a private non-accredited degree-granting institution.

Historical Note

New Section made by final rulemaking at 11 A.A.R.
2262, effective August 6, 2005 (Supp. 05-2).

R4-39-405. Student Loans and Financial Aid

- A.** In this Section, an “academic year” means at least 30 weeks of instruction.
- B.** A licensed private institution that receives, on behalf of a student, student loan or financial aid funds provided by a federal, state, or local government or from a federal student financial assistance program governed by Title IV of the Higher Education Act of 1965, 20 USC 1070 et seq. as amended, shall collect and disburse the monies in the manner prescribed by the applicable federal, state, or local regulations.
- C.** A licensed private non-accredited institution that receives, on behalf of a student, student loan or financial aid funds provided by a private entity including but not limited to a bank, financing company, credit card company, or other lending source shall ensure that the monies are collected and disbursed in the following manner:
1. Amounts equal to or less than \$5,000 may be disbursed as a single disbursement, regardless of program length.
 2. Amounts greater than \$5,000 shall:
 - a. Be disbursed in two or more equal disbursements; and
 - b. Have the second disbursement occur after the midpoint of the academic year for clock hour institutions or after the beginning of the second semester, quarter, trimester, or other term for term-based institutions.

Historical Note

New Section made by final rulemaking at 11 A.A.R.
2262, effective August 6, 2005 (Supp. 05-2).

R4-39-406. Closure of an Institution or Cessation of a Program

- A.** At least 60 calendar days before a licensed institution closes, ceases to operate a program in which a student is enrolled, or makes an alternative program available to a student enrolled in a program that the institution will cease to operate, the licensed institution shall provide written notice of the closure, cessation of the program, or alternative program to:
1. Each enrolled student in the program that the institution will cease to operate, and
 2. The Board.
- B.** Except as provided in subsections (C) and (D), no later than 30 calendar days after a licensed institution closes or ceases to operate a program in which a student is enrolled, the licensed institution shall provide a refund of 100 percent of all student fees and tuition paid by a student or other funding source on behalf of the student.
- C.** The refund requirement in subsection (B) does not apply if a student enrolled in a licensed institution that closes or in a pro-

gram that the licensed institution ceases to operate chooses in writing to waive the refund because the student has received training or academic credit that is transferable to another institution.

- D.** The refund requirement in subsection (B) does not apply if a licensed institution that ceases to operate a program in which a student is enrolled provides the student an alternative program that is equivalent to the program no longer operated, as determined by the Board, in:
1. Program content;
 2. Program length and schedule;
 3. Tuition, student fees, payment schedules, and financing options;
 4. Accreditation status, if applicable;
 5. Award of credentials;
 6. Instruction and equipment;
 7. Placement assistance and student services, if applicable; and
 8. Facilities.
- E.** This Section applies to a licensed institution regardless of whether the closure or the cessation of a program is the fault of the licensed institution.

Historical Note

New Section made by final rulemaking at 11 A.A.R.
2262, effective August 6, 2005 (Supp. 05-2).

ARTICLE 5. INVESTIGATIONS AND HEARING PROCEDURES

R4-39-501. Investigations

- A.** The Board shall investigate any sworn complaint against a person or entity alleging violation of A.R.S. § 32-3001 et seq. or this Chapter. For purposes of this Section, “investigated party” means an entity or person who is the subject of a Board investigation.
- B.** Board staff may request production of records or information from an investigated party or complainant, or request an interview with an employee or agent of the investigated party. The investigated party may file written objections with the Board to the Board’s request within 15 days of receipt of the request. Unless the investigated party timely files an objection to the Board’s request, the investigated party shall not fail to produce documents or information or attempt to make available for an interview an employee or agent of the investigated party. Board staff shall attempt to informally resolve objections to requests for documents, information, or an interview. If no resolution is reached, the matter shall be heard and decided by the Board.
- C.** The Board shall not disclose documents and materials relating to an investigated matter except to the investigated party, until the matter is closed, settled by stipulation, or set for hearing under Title 41, Chapter 6, Article 10.
- D.** Upon completion of the investigation, the matter shall be referred to the Board’s Complaint Committee for consideration.
- E.** After consideration of the matter investigated, the Complaint Committee may take the following actions:
1. Instruct Board staff to conduct further investigation. After further investigation, the matter may be re-heard by the Complaint Committee or referred to the Board;
 2. Determine that the investigation does not demonstrate a violation of A.R.S. § 32-3001 et seq. or this Chapter and recommend to the Board that the investigation be closed; or
 3. Determine that the investigation demonstrates there are reasonable grounds to indicate a violation of A.R.S. § 32-

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3001 et seq. or this Chapter and send a report of its findings and recommendation to the Board.

- F. If the Board determines that the investigation demonstrates that there are reasonable grounds to indicate a violation of A.R.S. § 32-3001 et seq. or this Chapter, the Board shall serve notice of the Board's determination and set the matter for hearing.

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 1947, effective April 2, 2002 (Supp. 02-2).

R4-39-502. Hearings

- A. All hearings shall be conducted before the Board or an administrative law judge under A.R.S. Title 41, Chapter 6, Article 10.
1. Parties may stipulate to any facts that are not in dispute. A stipulation may be made in writing or orally by reading the stipulation into the record of the hearing. A stipulation is binding upon the parties unless the Board grants a party permission to withdraw from the stipulation. The Board may, on its own motion, set aside a stipulation and proceed to ascertain the facts.
 2. The Board may, on its own motion or at the request of a party, call a conference of the parties at the opening of a hearing or at any subsequent time to clarify the procedures for the hearing or the legal or factual issues involved.
 3. By order of the Board, proceedings involving a common question of law or fact may be consolidated for hearing of any or all of the matters at issue.
- B. If, after proper notice, a licensee fails to appear at any proceeding before the Board, the Board may render a decision based upon the evidence and information available to the Board.
- C. The decision of the Board is a final administrative decision under A.R.S. § 41-1092.08(F).

Historical Note

Adopted effective May 21, 1985 (Supp. 85-3). Amended effective February 23, 1993 (Supp. 93-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 1947, effective April 2, 2002 (Supp. 02-2).

R4-39-503. Rehearing or Review of Board's Decision

- A. Any party aggrieved by a final administrative decision of the Board may file with the Board no later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds as provided in subsection (C). A rehearing shall be conducted before the Board or the administrative law judge under A.R.S. § 41-1092.09.
- B. A motion for rehearing or review may be amended at any time before it is ruled on by the Board. A response may be filed by any other party within 15 days after filing of a motion or amended motion. The Board may require the filing of written briefs on the issues raised in the motion and may provide for oral argument.
- C. The Board shall grant a rehearing or review of a decision for any of the following reasons that materially affect the moving party's rights:
1. Irregularity in the administrative proceedings of the Board or the administrative law judge or any order or abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board, the 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 original hearing;
5. An excessive or insufficient penalty;
6. Error in the admission or rejection of evidence or other error of law occurring at the administrative hearing; or
7. The decision is not justified by the evidence or is contrary to law.

- D. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. A rehearing or review shall cover only those matters specified in the Board's order.
- E. No later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason listed in subsection (C). An order granting such a rehearing or review shall specify the grounds on which it is granted.
- F. When a motion for rehearing or review is based upon affidavits, the affidavits shall be filed and served with the motion. An opposing party may, within 15 days after service, file and serve opposing affidavits. The Board may extend the period for serving opposing affidavits for not more than 20 days for good cause shown or by written stipulation of the parties.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1947, effective April 2, 2002 (Supp. 02-2).

ARTICLE 6. STUDENT TUITION RECOVERY FUND**R4-39-601. Submission of Assessments**

- A. Before July 30 of each year, the Board shall notify in writing an institution specified in A.R.S. § 32-3072(B) if an assessment as defined in A.R.S. § 32-3071(1) is due. The notice shall be sent by certified mail and shall contain the amount of the assessment, the date the payment of the assessment is due, and the penalty for failure to pay the assessment. As authorized by A.R.S. § 32-3072(B), the Board shall determine assessed fees as follows:
1. The assessment for an institution licensed under A.R.S. Title 32, Chapter 30 seeking renewal of a regular or provisional license shall be based on the number of newly enrolled students for the 12-month period identified on the license renewal application required under R4-39-108 or R4-39-107(D).
 2. The assessment for a new institution licensed under A.R.S. Title 32, Chapter 30 shall be based on the number of newly enrolled students during the fiscal year ending June 30.
 3. The assessment for a cosmetology school as defined in A.R.S. § 32-3071(3) or a professional driver training school as defined in A.R.S. § 32-3071(10) shall be based on the number of newly enrolled students during the fiscal year ending June 30.
- B. On June 30 of each year, the Board shall determine the amount of funds in the Student Tuition Recovery Fund ("Fund"). If the Fund balance exceeds \$500,000, only a new institution that is licensed or an institution that is provisionally licensed during the fiscal year that ended on June 30 shall be assessed a fee for that fiscal year.
- C. If an institution disputes the amount of the assessment for an institution, the Board shall place the matter on the agenda for a public meeting. The Board may require that the institution whose assessment is disputed:

1. Submit additional information or documents to clarify incomplete or ambiguous information or documents; and
2. Have a representative present to address the Board at the public meeting.

Historical Note

Adopted effective August 14, 1990 (Supp. 90-3).
Amended by final rulemaking at 7 A.A.R. 4256, effective
September 12, 2001 (Supp. 01-3).

R4-39-602. Claims

- A.** The Board shall investigate a claim against the Fund and find:
1. The claim is valid if:
 - a. Student educational records confirm that the claim is filed by a person injured as defined in A.R.S. § 32-3071(7); and
 - b. The claim is filed within one year after the closed institution ceases operation;
 2. The claim is invalid:
 - a. As specified in A.R.S. § 32-3075(B);
 - b. Because a student participates in a “teach-out.” As used in this subsection, “teach-out” means a student from a closed institution voluntarily transfers to another institution where the student receives all the instruction for which the student originally paid, but did not receive from the closed institution; or
 - c. Because a student from a closed institution voluntarily transfers to another institution and receives different training for an additional cost from what the student paid at the closed institution.
- B.** If the Board finds a claim to be valid, the Board shall determine the amount and the party to be paid as follows:
1. The claim payment shall include only the actual amount of tuition and fees paid in cash or with a student loan. The Board shall not make a claim payment for a grant, scholarship, or debt owed to another state, local, or federal governmental agency.

2. A claim payment shall be made first to the student loan holder for the amount owed on the loan, and then to the student or the parent for the amount already paid on the loan or cash payments.

- C.** The Board shall pay a valid claim within 120 days of the date of the public meeting at which the claim is considered.
- D.** A claimant who is not satisfied with the Board’s decision on a claim may file a motion for hearing as allowed under A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective August 14, 1990 (Supp. 90-3).
Amended by final rulemaking at 7 A.A.R. 4256, effective
September 12, 2001 (Supp. 01-3).

R4-39-603. Student Record Requests

- A.** The Board shall maintain the student records of a closed institution licensed under A.R.S. Title 32, Chapter 30 for a period of 25 years. For purposes of this Section, student records has the same meaning as in R4-39-401.
- B.** The Board shall provide student records of a student who attended a closed institution licensed under A.R.S. Title 32, Chapter 30, if the following are submitted:
1. Name and social security number of the student;
 2. Name of the closed institution;
 3. Student name used while attending the closed institution;
 4. Identification of the student record requested;
 5. Name and address of the party to whom the student record is to be mailed;
 6. Student signature or copy of a signed student record release form authorizing a third party to obtain the student record, if applicable; and
 7. \$10 processing fee and 25 cents per page copying charge.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 4256,
effective September 12, 2001 (Supp. 01-3).