

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R7-3-501 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 15-1852(C)
Implementing statute: A.R.S. § 15-1873 et seq.
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Verna L. Allen, Executive Director
Address: Commission for Postsecondary Education
2020 N. Central Ave., Suite 550
Phoenix, AZ 85004
Telephone: (602) 258-2435
Fax: (602) 258-2483
- 5. An explanation of the rule, including the agency's reason's for initiating the rule:**
The Commission for Postsecondary Education needs to bring the Arizona Family College Savings Program (Program) rules into conformity with the federal H.R. 1836, Economic Growth and Tax Relief Reconciliation Act of 2001, which was signed by President Bush on June 7, 2001, dealing with terms and definitions. This program rule amendment will satisfy conformity with the federal H.R. 1836 terms and definitions relating to the Internal Revenue Code § 529.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
No study is available or was relied upon.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

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

- a. An identification of the proposed rulemaking: Arizona Family College Savings Plan, R7-3-505, adopted pursuant to A.R.S. § 15-1873 et seq.
- b. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking: Persons directly affected are account owners.
- c. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking: The Commission will bear any administrative costs as a consequence of the proposed rulemaking.
- d. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking: None.
- e. A statement of the probable impact of the proposed rulemaking on small business: None.
- f. A statement of the probable effect on state revenues: No effect is anticipated as this Program is self-supported.
- g. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking: Due to the nature of the various statutory requirements, less intrusive or less costly alternatives are not available.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Verna L. Allen, Executive Director
Address: Commission for Postsecondary Education
2020 N. Central Ave., Suite 550
Phoenix, AZ 85004
Telephone: (602) 258-2435
Fax: (602) 258-2483

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: December 27, 2001
Time: 2:00 p.m.
Location: Commission for Postsecondary Education
2020 N. Central Ave., Suite #550
Phoenix, AZ 85004
Nature: Oral Proceeding and Adoption of Rules

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 7. EDUCATION

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Section

R7-3-501. Definitions

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

R7-3-501. Definitions

A. "Account Year" means the period beginning on October 1 and ending on September 30 of each year.

~~A.B.~~ "A.R.S." means Arizona Revised Statutes.

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- B.C.** “Cash” means currency, bills and coin in circulation, or converting a negotiable instrument to cash by endorsing and presenting to a financial institution for deposit. An automatic transfer, cashier’s check, and wire transfer will be treated as cash. Deposits will also be accepted by credit card.
- C.D.** “Code” means the Internal Revenue Service Code of 1986, as amended, or the corresponding provision of any future United States Internal Revenue law.
- D.E.** “Commission” means the Commission for Postsecondary Education as defined in A.R.S. § 15-1871.
- E.F.** “Committee” means the Family College Savings Program Oversight Committee as defined in A.R.S. § 15-1871.
- F.G.** “Direct the investment” means specifying or attempting to specify the particular financial instruments (such as certificates of deposit) or ownership interests (such as stock certificates or interests in mutual funds) either individually, or within a fund family or other group of financial instruments or ownership interests held as an investment group, into which the account holder’s contributions or earnings will be invested. Direct the investment does not mean selecting an initial type of investment program if more than one program is offered.
- G.H.** “Higher education institution” means a higher education institution as defined in A.R.S. § 15-1871(7), provided that, solely for the purposes of determining whether a withdrawal or distribution is subject to a penalty under R7-3-506, the term shall not include any institution that is not also an “eligible educational institution” as defined in Code § 529(e)(5).
- H.I.** “Negotiable instrument” means negotiable instrument as defined in A.R.S. § 47-3104.
- J.** “Qualified Tuition Program” means a qualified tuition program as defined in § 529 of the Code.