

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 7. EDUCATION

#### CHAPTER 2. STATE BOARD OF EDUCATION

[R05-39]

#### PREAMBLE

- 1. Sections Affected**  
R7-2-708
- Rulemaking Action**  
Amend
- 2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing Statute: A.R.S. §15-203(A)  
Implementing Statute: A.R.S. §15-203(A)(20) and (23)
- 3. Effective Date of the Rule:**  
March 29, 2005
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 10 A.A.R. 1033, March 19, 2004  
Notice of Proposed Rulemaking: 10 A.A.R., 1017 March 19, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Christy Farley, Executive Director, State Board of Education  
Address: 1535 W. Jefferson, Room 418  
Phoenix, AZ 85007  
Telephone: (602) 542-5057  
Fax: (602) 542-3046  
E-mail: cfarley@ade.az.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The State Board of Education is proposing elimination of the default proceeding in the administrative hearing process administered by the State Board of Education Professional Practices Advisory Committee upon failure of an individual to appear at a hearing or review.  
  
The default hearing currently in place does not provide any additional safeguards for certificate-holders and the State Board has found that it serves as an obstacle in providing timely disposition of administrative hearing decisions. The State Board of Education Investigative Unit exhausts all means of contacting certificate-holders to inform them of a scheduled hearing on their certificate(s). Currently, the Investigative Unit notifies individuals by certified mail or through a process server of any hearings scheduled on their certificate(s). The existence of a default hearing that would be noticed in the same manner does not assist individuals in gaining notice of a subsequent hearing on their certificate(s), but rather only delays the process. In addition, legislation was passed during the 2004 legislative session and signed by the Governor (Laws 2004, Chapter 198) to require certificate-holders to notify the Arizona Department of Education of changes in their address. The Investigative Unit will then use the last known address as provided by the certificate-holder to notify an individual of any hearing scheduled on their certificate(s). This system is used by several other regulatory agencies and is more efficient and reflects the partnership that exists between certificate-holder and licensing entity.
- 7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Notices of Final Rulemaking

Not applicable

**8. 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:**

The proposed rules will not diminish any previous grant of authority of a political subdivision of this state.

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

These rules are not expected to have any economic impact on small businesses or consumers. A possible cost savings may occur for the State Board of Education in reduced administrative hearings as a result of not having to hold default proceedings at the Professional Practices Advisory Committee, saving the time of our volunteer members who receive per diem and travel reimbursement and the time of our staff and legal counsel in preparing for such hearings.

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

None

**11. A summary of the principal comments and the agency response to them:**

No public comment was received.

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

Not applicable

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule?:**

No

**15. The full text of the rules follows:**

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 7. ADJUDICATIONS

Section

R7-2-708. ~~Failure to appear; default~~ Repealed

ARTICLE 7. ADJUDICATIONS

**R7-2-708. ~~Failure to appear; default~~ Repealed**

- A.** ~~If, after being served with a notice of hearing, a party fails to appear at the time and place of any proceeding in a contested case, a proposed default order that includes a statement of the reasons to default the nonappearing party may be served upon all parties.~~
- B.** ~~Within seven days after service of a proposed default order, the party against whom it was issued may file a written request to deny the proposed default order, including a statement of the reasons it should be denied. The hearing body shall rule upon request to deny the proposed default order within 30 days of the date of filing.~~
- C.** ~~The hearing body may enter the default order after expiration of the time specified in subsection (B) of this rule.~~
- D.** ~~After entering a default order, the hearing body may conduct any further proceedings necessary to complete the contested case without the defaulted party and shall determine all issues in the case, including those affecting that party.~~