

**ARIZONA STATE BOARD  
FOR  
PRIVATE POSTSECONDARY EDUCATION**  
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## **RULES**

**AMENDED AND EFFECTIVE 6/4/2016**

## **TITLE 4. PROFESSIONS AND OCCUPATIONS**

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## **ARTICLE 1. DEFINITIONS, LICENSURE, REPORTING**

### **R4-39-101. Definitions**

In addition to the definitions in A.R.S. §§ 32-3001 and 32-3071, 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. “Applicant” means a private postsecondary education institution on whose behalf an application is submitted to the Board for a license to operate the institution and offer vocational programs or grant degrees.
3. “Conditional license” means a non-renewable one-year license issued by the Board to a private non-accredited vocational or degree-granting institution.
4. “Day” means a calendar day unless specified otherwise.
5. “DE” means the United States Department of Education.
6. “GTR” means gross tuition revenue.
7. “Licensee” means a private postsecondary education institution that is licensed by the Board and offers vocational programs or grants degrees.
8. “Management capability” as used in A.R.S. § 32-3051(10), means continuous coordination of all federal, state, and accreditation requirements, as applicable, in a manner that provides an educationally enriching environment that benefits students.
9. “Misrepresent” means to give a false or misleading representation with the intent to deceive or be unfair.
10. “Operate” has the meaning specified in A.R.S. § 32-3001 and includes the concept of “physical presence” as defined by the National Council for State Authorization Reciprocity Agreements Policies and Standards, dated August 19, 2014 (See <http://nc-sara.org>).
11. “Provisional license” means a renewable one-year license issued by the Board to a private non-accredited degree-granting institution.
12. “Regular license” means a renewable one-year license issued by the Board to a:
  - a. Private accredited vocational institution,
  - b. Private accredited degree-granting institution, or
  - c. Private non-accredited vocational institution.
13. “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.
14. “Signing” means the act of providing a signature.
15. “Staff” means an individual employed by or representing a private vocational institution or private degree-

granting institution.

16. "Student fees" means charges incurred by a student or a funding source on behalf of the student for registration, admission, tuition financing, loans, or charges for books, laboratory fees, or other education-related costs.
17. "Teach-out" means the process by which a private postsecondary education institution fulfills its educational and contractual obligations to currently enrolled students before voluntarily closing a program the institution offers or before closing the institution.
18. "Tuition" means a fee paid for instruction at a college or university or a private school.

#### **R4-39-102. Licenses Issued and Licensing Time Frames**

- A.** A license from the Board issued to a private degree-granting institution authorizes the institution to operate and grant degrees.
- B.** A license from the Board issued to a private vocational institution authorizes the institution to operate and offer a vocational program.
- C.** If a private degree-granting or private vocational institution is accredited, the Board shall issue a regular license to the institution if the institution meets the standards in R4-39-103.
- D.** If a private degree-granting or private vocational institution is non-accredited, the Board shall issue a conditional license to the institution if the institution meets the standards in R4-39-104 or R4-39-106, as applicable. The institution may operate under a conditional license for only one year.
  1. At the end of one year, the conditional license of a non-accredited, private, vocational institution becomes, upon approval by the Board, a regular license if the institution meets the standards in R4-39-105.
  2. At the end of one year, the conditional license of a non-accredited, private, degree-granting institution becomes, upon approval by the Board, a provisional license if the institution meets the standards in R4-39-107.
- E.** A non-accredited, private, degree-granting institution may continue to operate with a provisional license if the institution continues to meet the standards in R4-39-107.
- F.** All licenses issued by the Board are effective for 12 months from the date of issuance. To continue to operate a private vocational institution or private degree-granting institution, a licensee shall annually renew the license under R4-39-105 or R4-39-107, as applicable.
- G.** For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time frames:
  1. For a conditional or regular license application to operate a vocational institution or a regular license application to operate a degree-granting institution:
    - a. Administrative completeness review time frame: 135 days;
    - b. Substantive review time frame: 45 days;
    - c. Overall time frame: 180 days.

2. For a conditional or provisional license application to operate a degree-granting institution:
  - a. Administrative completeness review time frame: 150 days;
  - b. Substantive review time frame: 90 days;
  - c. Overall time frame: 240 days.
3. For a license renewal application to continue to operate a vocational or degree-granting institution or for a supplemental license application:
  - a. Administrative completeness review time frame: 60 days;
  - b. Substantive review time frame: 45 days;
  - c. Overall time frame: 105 days.

**H.** Within the time specified in subsection (G), 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 send the applicant a notice that specifies what information is missing and other deficiencies 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 the missing information and corrects all deficiencies.
  - a. An applicant with an incomplete application shall submit the missing information and correct the deficiencies within 60 days after receiving the notice.
  - b. If the applicant cannot comply with the 60-day deadline in subsection (H)(2)(a), the applicant may request an extension of no more than 30 days by submitting a written request to the Board that documents the reasons the applicant is unable to meet the 60-day deadline and is postmarked or delivered before the deadline specified in subsection (H)(2)(a).
  - c. The Board shall grant the request for an extension of the 60-day deadline if the Board determines that the extension will enable the applicant to submit all missing information and correct all deficiencies. The Board shall grant only one extension of the 60-day deadline specified in subsection (H)(2)(a).
  - d. If the applicant responds to the notice provided under subsection (H)(2) by providing some of the missing information and correcting some of deficiencies but the Board determines the application is still incomplete, the Board shall send the applicant a second notice that specifies what information is missing and other deficiencies found in the application and provide the applicant with 60 days in which to complete the application. The Board shall not grant an extension of the 60-day deadline provided with a second deficiency notice.
  - e. If the applicant fails to submit all missing information or correct all deficiencies within the 60-day deadline provided under subsection (H)(2)(d), the Board shall close the application. An applicant whose application is closed and later wishes to be licensed shall submit a new application and pay the fee required under R4-39-201.

- f. When the Board receives the missing information and the deficiencies are corrected, 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.
- I. Within the time specified in subsection (G), the Board shall complete a substantive review of the application, which may include onsite verification.
  - 1. If the Board finds deficiencies during the substantive review of the application, the Board shall issue a comprehensive written request for additional information and the deadline for submitting the additional information. The time frame for substantive review of an application is suspended from the date the comprehensive written request for additional information is served until the information is received.
  - 2. When the applicant and Board agree in writing, the Board may make supplemental requests for information.
  - 3. When the applicant and Board agree in writing, the Board shall grant extensions of the substantive review time frame consistent with A.R.S. § 41-1075(B).
  - 4. If the applicant fails to submit the additional information by the deadline, the Board shall close the application. An applicant whose application is closed and who later wishes to be licensed, shall submit a new application.
- J. At the end of the substantive review, the Board shall decide whether to grant a license to the applicant.
  - 1. If the Board finds that the applicant meets all requirements defined in statute and rule, the Board shall grant a license.
  - 2. If the Board finds that the applicant fails to meet all requirements defined in statute and rule, the Board shall deny a license.
  - 3. If the Board denies a license, the Board shall send the applicant a notice of denial that specifies why a license was denied and describes the applicant's right to request a hearing regarding the denial.

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

- A. A person shall not operate a private accredited vocational or degree-granting institution without a regular license granted by the Board.
- B. Except as specified in subsection (B)(6), the Board shall not grant or renew a regular license if:
  - 1. Within 10 years before filing the application packet required in subsection (D) or since the start date of the current licensure period, an individual with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has been convicted in this state or any jurisdiction of any crime, regardless of whether the crime is a misdemeanor or felony, that a reasonable person would consider relevant to the legal and ethical operation of an educational institution;
  - 2. Within 10 years before filing the application packet required in subsection (D) or since the start date of the current licensure period, a person with at least 20 percent ownership in the applicant or an officer or

employee who controls, manages, or represents the applicant in this state has had a license to operate a vocational or degree-granting institution revoked in this state or any jurisdiction;

3. The applicant provides false or misleading information on or with the application packet required by this Section;
4. The applicant was previously licensed by the Board and ceased operation without complying with R4-39-402 and R4-39-406; or
5. The applicant ceased to operate or offer a program and as a result:
  - a. The Board was obligated to make a payment from the Student Tuition Recovery Fund established under A.R.S. § 32-3072, or
  - b. The DE or a private entity forgave loans, in whole or in part, to affected students; and
6. If the conviction described in subsection (B)(1) was discharged, expunged, set aside, or vacated, the Board shall consider this fact when exercising its discretionary power under this Section.

**C.** The Board shall grant or renew a regular license only 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);
  - 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 offered; 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 an initial regular license shall submit to the Board an application packet that includes:

1. The filing fee required under R4-39-201;
2. The information and documentation required in R4-39-104(D)(2), if required, and (D)(3) through (D)(17);
3. The name of each accrediting agency that accredits the applicant or the applicant's programs;
4. For each accrediting agency named in subsection (D)(3), documentation from the accrediting agency that confirms the current accreditation status of the applicant or the applicant's programs;
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. A copy of the applicant's most recent DE program participation agreement and financial aid audit, if applicable;
7. For each federal student financial aid program named in the agreement in subsection (D)(6), documentation from the DE demonstrating participation in the federal student financial aid program and

showing the applicant's default rate for the last three years, if applicable;

8. Attestation by the individual signing the application that the applicant complies and will continue to comply with all DE requirements governing federal student financial aid programs named in the agreement in subsection (D)(6);
  9. A copy of the applicant's current catalog and enrollment agreement 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 days before a licensee's regular license expires, the licensee shall submit to the Board a license renewal application packet that includes:
1. The filing fee required under R4-39-201; and
  2. The information and documentation required in:
    - a. R4-39-104(D)(2) if required under A.R.S. § 32-3023 and R4-39-108;
    - b. R4-39-104(D)(3), (D)(4), (D)(5), (D)(8)(a) and (c), (D)(12), and (D)(17); and
    - c. Subsections (D)(3) through (D)(10);
  3. A list of all individuals or persons referenced in R4-39-104(D)(14) and (D)(15);
  4. A report on the annual enrollment and retention and placement rates for each program offered by the licensee, if the report is required by DE or the accrediting agency that accredits the program or licensee;
  5. For each program offered, an indication whether the program is offered by residential or online delivery or both; and
  6. A list of all programs that are in teach-out and:
    - a. The names of all students in each program,
    - b. The anticipated completion date of each student, and
    - c. Contact information for each student.
- F.** A licensee shall:
1. Notify the Board in writing within 24 hours if the licensee:
    - a. Receives a grant of accreditation issued by an accrediting agency other than an accrediting agency named under subsection (D)(3);
    - b. Becomes eligible to participate in a federal student financial aid program other than a federal student financial aid program named in the agreement under subsection (D)(6);
    - c. Ceases to be accredited or has a program that ceases to be accredited by an accrediting agency named under subsection (D)(3);
    - d. Ceases to be eligible to participate in a federal student financial aid program named in the agreement under subsection (D)(6);
    - e. Decides to cease operations; or
    - f. Knows or should know that the license is under investigation by any state or federal agency or an accrediting agency; and
  2. Notify the Board in writing within five business days of:

- a. A change in any grant of accreditation issued by an accrediting agency named under subsection (D) (3) or (F)(1)(a) including but not limited to the following adverse actions:
    - i. Suspending accreditation,
    - ii. Withdrawing or cancelling accreditation,
    - iii. Placing accredited institution on probation,
    - iv. Requiring accredited institution to show cause, or
    - v. Requiring a specific corrective action, or
  - b. A change in eligibility to participate in a federal student financial aid program named in the agreement under subsection (D)(6) or (F)(1)(b).
- G.** The Board may conduct an inspection under A.R.S. § 41-1009, of an applicant's or licensee's place of business to determine compliance with the requirements of A.R.S. Title 32, Chapter 30 and this Article.
- H.** As provided in A.R.S. § 32-3051, the Board may discipline a licensee that:
- 1. Violates a requirement in subsection (F); or
  - 2. Intentionally or negligently misrepresents any material information in documents or information presented to the Board.

**R4-39-104. Requirements for a Conditional License to Operate a Private Non-Accredited Vocational Institution in Arizona**

- A.** A person shall not operate a private non-accredited vocational institution without a conditional license granted by the Board.
- B.** Except as specified in subsection (B)(6), the Board shall not grant a conditional license if:
- 1. Within 10 years before filing the application packet required in subsection (D), an individual with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has been convicted in this state or any jurisdiction of any crime, regardless of whether the crime is a misdemeanor or felony, that a reasonable person would consider relevant to the legal and ethical operation of an educational institution;
  - 2. Within 10 years before filing the application packet required in subsection (D), a person with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has had a license to operate a vocational or degree-granting institution revoked in this state or any jurisdiction;
  - 3. The applicant provides false or misleading information on or with the application required by this Section;
  - 4. The applicant was previously licensed by the Board and ceased operations without complying with R4-39-402 and R4-39-406; or
  - 5. The applicant ceased to operate or offer a program and as a result:
    - a. The Board was obligated to make a payment from the Student Tuition Recovery Fund established

under A.R.S. § 32-3072, or

b. The DE or a private entity forgave loans, in whole or in part, to affected students; and

6. If the conviction described in subsection (B)(1) was discharged, expunged, set aside, or vacated, the Board shall consider this fact when exercising its discretionary power under this Section.

**C.** The Board shall grant a conditional license to an applicant if:

1. The applicant provides the information and documentation required in subsection (D); and

2. The information provided under subsection (D) demonstrates:

a. Compliance with A.R.S. § 32-3021(B)(1) through (11); 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 that includes:

1. The filing fee required under R4-39-201;

2. A letter of credit, surety bond, cash deposit, or equivalent security, as required under A.R.S. § 32-3023, of \$15,000 or another amount determined by the Board under R4-39-108;

3. 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 at least 20 percent ownership in the applicant, and

iii. All individuals responsible for controlling, managing, or representing the applicant in this state;

e. Responses to questions regarding whether a person identified in subsection (D)(3)(d) has ever applied for or been issued a license to operate a vocational or degree-granting institution in this state or any jurisdiction;

f. Responses to questions regarding the finances, federal or state tax liabilities, management capabilities, and criminal history of the persons identified under subsection (D)(3)(d)(ii);

g. Responses to questions regarding programs and student recruitment, enrollment, retention, placement, and financing;

h. Name of the director required under R4-39-303(B) and evidence that the director is qualified;

i. Staffing information including:

i. Required minimum qualifications of faculty for each program to be offered;

ii. The number of administrative personnel and faculty members projected at the end of the first licensure period; and

iii. The names of all current administrative personnel and faculty members;

- j. 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;
  - k. 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
  - l. The notarized signature of an owner of the applicant or an owner's legal representative and date of signature;
4. Financial statements or financial documentation required under R4-39-108;
5. Evidence of the insurance required under R4-39-108;
6. If applicable, a copy of the applicant's articles of incorporation, partnership or joint venture documents, or limited liability documents;
7. A business plan that includes:
  - a. Executive summary with highlights, objectives, and mission;
  - b. Applicant summary;
  - c. Programs offered and services provided;
  - d. Marketing plan and implementation; and
  - e. Financial plan that includes three-year projections and financial resources available to demonstrate financial stability;
8. For each program to be offered, a form provided by the Board describing:
  - a. Program content, length, and delivery system information;
  - b. Program prerequisites and completion requirements;
  - c. Student fees as defined at R4-39-101;
  - d. Any required textbooks or program learning materials;
  - e. Any equipment or technology or competency requirements;
  - f. As applicable:
    - i. Library resources;
    - ii. Clinical training, practica, externships, internships, or special features;
    - iii. Graduate employment opportunities; and
    - iv. Licensing requirements for a graduate of the program to practice; and
  - g. Attach to the form, a copy of the certificate or diploma to be awarded when the program is completed.
9. A copy of the applicant's student enrollment agreement meeting the requirements in R4-39-401;
10. A copy of the applicant's catalog meeting the requirements in R4-39-301;
11. A copy of each brochure, promotional document, uniform resource locator, or advertisement intended for students or potential students;
12. A copy of the applicant's student grievance procedure that:
  - a. Is published in the applicant's catalog required under subsection (D) (10);
  - b. Provides the steps and time frames involved in the grievance procedure;

- c. References the student's right under A.R.S. § 32-3052 to file a complaint with the Board;
  - d. Lists the Board's address, telephone number, and web site; and
  - e. If the applicant requires arbitration as part of the student grievance procedure, includes the following statement: Arbitration of a student grievance is required. Arbitration will take place at a location reasonably convenient for both parties giving due consideration to the student's ability to travel and other pertinent circumstances. Both parties will attempt to have proceedings take place within a reasonable time and without undue delay. The arbitration proceedings will follow the spirit if not the letter of the consumer due process protocol of the American Arbitration Association. The protocol includes but is not limited to a fundamentally fair process; an independent and impartial, competent, and qualified arbitrator; independent administration of the arbitration; reasonable cost; right to representation; and possibility of mediation. Arbitration does not preclude other avenues of recourse, including but not limited to possible relief in small claims court, unless and until the arbitration result is made binding. Arbitration of a student grievance does not preclude the student from seeking a remedy from the Arizona Board of Private Postsecondary Education.
- 13. An institutional organizational chart including staff names and position titles;
  - 14. For each individual identified under subsection (D)(3)(d), a form provided by the Board describing the individual's professional and educational background;
  - 15. For each faculty member named under subsection (D)(3)(h)(iv), a form provided by the Board describing the individual's professional and educational background;
  - 16. 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, building codes, and zoning ordinances; and
  - 17. Other information the Board or applicant believes is relevant and will assist the Board to determine whether the applicant is in compliance with all licensing requirements under A.R.S. Title 32, Chapter 30 and this Article.
- E.** Before granting a conditional license, the Board shall conduct an inspection, under A.R.S. § 41-1009, of an applicant's place of business to determine compliance with subsection (C).
  - F.** If the Board grants a conditional license to an applicant, the conditional 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, under A.R.S. § 41-1009, of a licensee's place of business to determine continuing compliance with the requirements of A.R.S. Title 32, Chapter 30 and this Article.

H. Under the authority provided at 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.

**R4-39-105. Requirements for a Regular License to Continue to Operate a Private Non-Accredited Vocational Institution in Arizona**

- A. Except as specified in subsection (A)(6), the Board shall not grant or renew a regular license to an applicant, if:
1. Since the start date of the current licensure period, an individual with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has been convicted in this state or any jurisdiction of any crime, regardless of whether the crime is a misdemeanor or felony, that a reasonable person would consider relevant to the legal and ethical operation of an educational institution;
  2. Since the start date of the current licensure period, a person with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has had a license to operate a vocational or degree-granting institution revoked in this state or any jurisdiction;
  3. The applicant provides false or misleading information on or with an application required by this Section;
  4. The applicant was previously licensed by the Board and ceased operations without complying with R4-39-402 and R4-39-406; or
  5. The applicant ceased to operate or offer a program and as a result:
    - a. The Board was obligated to make a payment from the Student Tuition Recovery Fund established under A.R.S. § 32-3072, or
    - b. The DE or a private entity forgave loans, in whole or in part, to affected students; and
  6. If the conviction described in subsection (A)(1) was discharged, expunged, set aside, or vacated, the Board shall consider this fact when exercising its discretionary power under this Section.
- B. The Board shall grant or renew a regular license to a licensee if the licensee submits an application and:
1. The application includes the information required in subsection (C); and
  2. The information provided demonstrates:
    - a. Compliance with A.R.S. § 32-3021(B)(1) through (11); and
    - b. The ability to provide educational services as represented to the public.
- C. No later than 60 days before expiration of a licensee's conditional or regular license, the licensee shall submit to the Board an application packet that includes:
1. The filing fee required under R4-39-201;
  2. The information and documentation required in R4-39-104(D)(2) through (D)(5), (D)(8)(a) and (c), (D)(9), (D)(10), (D)(12), (D)(14), (D)(15) and (D)(17); and
  3. A report on the annual enrollment and retention and placement rates for each program offered by the

licensee;

- D.** A licensee that fails to comply with subsection (C) and allows the licensee's conditional or regular license to expire shall:
  - 1. Comply with subsection (C) within 30 days after the license expires, and
  - 2. Pay the late renewal fee prescribed under A.R.S. § 32-3027(A)(7); or
  - 3. Immediately cease operating in this state.
- E.** The Board may conduct an inspection, under A.R.S. § 41-1009, of a licensee's place of business to determine compliance with the requirements in A.R.S. Title 32, Chapter 30 and this Article.
- F.** As provided in A.R.S. § 32-3051, the Board may discipline a licensee that:
  - 1. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board, or
  - 2. Fails to comply fully with subsection (C) or (D) but continues to operate in this state.

**R4-39-106. Requirements for a Conditional License to Operate a Private Non-Accredited Degree-granting Institution in Arizona**

- A.** A person shall not operate a private non-accredited degree-granting institution without a conditional license granted by the Board.
- B.** Except as specified in subsection (B)(4), the Board shall not grant a conditional license to an applicant, if:
  - 1. Within 10 years before filing the application packet required in subsection (D), an individual with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has been convicted in this state or any jurisdiction of any crime, regardless of whether the crime is a misdemeanor or felony, that a reasonable person would consider relevant to the legal and ethical operation of an educational institution;
  - 2. Within 10 years before filing the application packet required in subsection (D), a person with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has had a license to operate a vocational or degree-granting institution revoked in this state or any jurisdiction; or
  - 3. The applicant provides false or misleading information on or with an application required by this Section; and
  - 4. If the conviction described in subsection (B)(1) was discharged, expunged, set aside, or vacated, the Board shall consider this fact when exercising its discretionary power under this Section.
- C.** The Board shall grant a conditional license to an applicant if the applicant submits an application and:
  - 1. The application includes the information required in subsection (D); and
  - 2. The information provided demonstrates:
    - a. Compliance with A.R.S. §§ 32-3021(B)(1) through (11) and 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 that includes:

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 offered;
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; and
5. A chronological timeline identifying the applicant's projected progress in gaining accreditation from each accrediting agency named under subsection (D)(3)

**E.** If the Board grants a conditional license to an applicant, the conditional 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);
  - c. Is denied accreditation by an accrediting agency named under subsection (D)(3); or
  - d. Knows or should know that an investigation of the licensee is being or was conducted by a state or federal agency or an accrediting agency;
2. Within five days of:
  - a. 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
  - b. 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; and
3. Within 10 days after determining that the licensee failed to meet the timeline submitted under subsection (D)(5), submit written notice of the failure to the Board.

**F.** Before granting a conditional license, the Board shall conduct an inspection, under A.R.S. § 41-1009, of an applicant's place of business to determine compliance with subsection (C).

**G.** If the Board grants a conditional license to an applicant, while licensed, the conditional 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 under A.R.S. § 41-1009 of a licensee’s place of business to determine compliance with the requirements of this Article.
- I.** As provided in A.R.S. § 32-3051, the Board may discipline a licensee that:
1. Violates a requirement in subsection (E), or
  2. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board.

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

- A.** Except as specified in subsection (A)(7), the Board shall not grant or renew a provisional license to an applicant if:
1. Since the start date of the current licensure period, an individual with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has been convicted in this state or any jurisdiction of an any crime regardless of whether the crime is a misdemeanor or felony, that a reasonable person would consider relevant to the legal and ethical operation of an educational institution;
  2. Since the start date of the current licensure period, a person with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has had a license to operate a vocational or degree-granting institution revoked in this state or any jurisdiction;
  3. The applicant provides false or misleading information on or with an application required by this Section;
  4. The applicant fails to apply for accreditation as required under R4-39-106(D)(3) or fails to make progress consistent with the chronological timeline specified under R4-39-106(D)(5) for three consecutive renewal periods;
  5. The applicant was previously licensed by the Board and ceased to operate without complying with R4-39-402 and R4-39-406; or
  6. The applicant ceased to operate or offer a program and as a result:
    - a. The Board was obligated to make a payment from the Student Tuition Recovery Fund established under A.R.S. § 32-3072, or
    - b. The DE or a private entity forgave loans, in whole or in part, to affected students; and
  7. If the conviction described in subsection (A)(1) was discharged, expunged, set aside, or vacated, the Board shall consider this fact when exercising its discretionary power under this Section.
- B.** The Board shall grant or renew a provisional license to an applicant if the applicant submits an application and:
1. The application includes the information required in subsection (C); and

2. The information provided demonstrates:
  - a. Compliance with A.R.S. §§ 32-3021(B)(1) through (11) and 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 days before expiration of a licensee's conditional or provisional license, an applicant for an initial or renewed provisional license shall submit to the Board an application packet that includes:
  1. The filing fee required under R4-39-201;
  2. The information and documentation required in R4-39-104(D)(2) through (D)(5), (D)(8)(a) and (c), (D)(9), (D)(10), (D)(12), (D)(14), (D)(15), and (D)(17);
  3. A report on the annual enrollment and retention and placement rates for each program offered;
  4. Documents that demonstrate the applicant met the chronological timeline submitted under R4-39-106(D)(5); and
  5. Copies of application documents and all correspondence with all accrediting agencies named under R4-39-106(D)(3), if applicable.
- D. A licensee that fails to comply with subsection (C) and allows the licensee's conditional or provisional license to expire shall:
  1. Comply with subsection (C) within 30 days after the license expires, and
  2. Pay the late renewal fee prescribed under A.R.S. § 32-3027(A)(7); or
  3. Immediately cease operating in this state.
- E. A licensee shall:
  1. Notify the Board in writing by the next business day 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);
    - c. Is denied accreditation by an accrediting agency named under R4-39-106(D)(3);
    - d. Knows or should know that the licensee is or was under investigation by a state or federal agency or an accrediting agency; or
    - e. Decides to cease operations;
  2. Within five days of:
    - a. 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
    - b. Mailing or sending, submit to the Board a copy of any document mailed or sent by the licensee 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; and

3. Within 10 days after determining that the licensee failed to meet the timeline submitted under subsection R4-39-106(D)(5), submit written notice of the failure to the Board.
- F.** The Board may conduct an inspection, under A.R.S. § 41-1009, of a licensee's place of business to determine compliance with the requirements of this Article.
- G.** As provided in A.R.S. § 32-3051, the Board may discipline a licensee that:
1. Violates a requirement in subsection (E),
  2. Intentionally or negligently misrepresents any material information in documents or testimony presented to the Board, or
  3. Fails to comply fully with subsection (C) or (D) but continues to operate in this state.

**R4-39-108. Surety Bond, Cash Deposit, or Letter of Credit; Insurance; Financial Statement Requirements; and Finance Committee**

- A.** An applicant or licensee under R4-39-104, R4-39-105, R4-39-106, or R4-39-107 shall have a surety bond, cash deposit, or letter of credit as required under A.R.S. § 32-3023(A). The Board shall determine the dollar amount of the surety bond, cash deposit, or letter of credit under A.R.S. § 32-3023(C).
- B.** The Board may require an applicant or licensee under R4-39-103 or R4-39-110(D) or (E) have a surety bond, cash deposit, or letter of credit as allowed under A.R.S. § 32-3023(B). The Board shall determine whether a surety bond, cash deposit, or letter of credit is required of an applicant or licensee under R4-39-103 or R4-39-110(D) or (E) and if so, the amount of the surety bond, cash deposit, or letter of credit. In determining whether and the amount of surety bond, cash deposit, or letter of credit to require, the Board shall consider the following factors:
1. Whether the institution has sources of funding other than tuition and the percentage of the institution's funding contributed by the other sources;
  2. The amount of time programs offered by the institution require for completion; and
  3. The criteria regarding financial responsibility specified under subsection (I)(4).
- C.** The Board shall use the following guidelines to determine the amount of surety bond, cash deposit, or letter of credit to require of an applicant or licensee:
1. The minimum amount required for applicants and licensees is \$15,000;
  2. Additional amounts required of an accredited institution:
    - a. If the annual GTR is less than \$400,000, 15 percent of annual GTR; and
    - b. If the annual GTR is \$400,000 or more, 10 percent of annual GTR; and
  3. Additional amounts required of a non-accredited institution:
    - a. If the annual GTR is less than \$400,000, 20 percent of annual GTR; and
    - b. If the annual GTR is \$400,000 or more, 15 percent of annual GTR.
- D.** An applicant or licensee that meets the requirement under subsection (A) or (B) with a surety bond shall purchase the surety bond from a surety company that has a rating of A or higher from a national rating

service.

**E.** An applicant or licensee shall:

1. Have and maintain with an insurance company authorized to transact business in this state coverage that is adequate to protect the applicant or licensee's assets in the event of damage or a finding of liability:
  - a. For an applicant or licensee with annual GTR of \$1,000,000 or more:
    - i. A minimum single occurrence of \$1,000,000 for educators' errors and omissions or malpractice liability insurance; and
    - ii. A minimum single occurrence of \$1,000,000 for general liability coverage for operation of the institution;
  - b. For an applicant or licensee with annual GTR more than \$500,000 but less than \$1,000,000:
    - i. A minimum single occurrence of not less than the previous year's GTR plus 10 percent for educators' errors and omissions or malpractice liability insurance; and
    - ii. A minimum single occurrence not less than the previous year's GTR plus 10 percent of general liability coverage for the operation of institution;
  - c. For an applicant or licensee with annual GTR equal to or less than \$500,000:
    - i. A minimum single occurrence of not less than \$500,000 for educators' errors and omissions or malpractice liability insurance; and
    - ii. A minimum single occurrence not less \$500,000 of general liability coverage for the operation of institution; or
2. Be self-insured for the amounts in subsection (C)(1).

**F.** An applicant or licensee shall submit to the Board a fiscal year-end financial statement that complies with the following requirements:

1. If the applicant or licensee has annual GTR greater than \$350,000:
  - a. Is prepared and compiled, reviewed, or audited by a certified public accountant in accordance with generally accepted accounting principles; and
  - b. Includes a statement of cash flows and disclosures; or
2. If the applicant or licensee has annual GTR equal to or less than \$350,000:
  - a. Is compiled, reviewed, or audited in accordance with generally accepted accounting principles; and
  - b. Includes supporting documentation requested by the Board; and
3. Includes additional financial information if required by the Board under subsections (G) and (H).

**G.** The Board shall require an applicant or licensee to submit additional financial documentation if:

1. The fiscal year-end financial statement is 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 jurisdiction.

**H.** The Board may require an applicant or licensee to submit additional financial documentation or submit to a financial review if:

1. The Board has concerns based on the applicant's or licensee's responses to questions regarding the distribution of ownership, business type, and legal structure; or
  2. The financial documentation submitted shows:
    - a. Current ratio of assets to liabilities less than 1:1,
    - b. Current negative net worth,
    - c. Net losses during each of the last two years,
    - d. Subject to additional DE reporting requirements or has a composite score of less than 1.5,
    - e. Current cash reserves are insufficient to make required refunds,
    - f. Current financial obligations are not being met,
    - g. Applicant or licensee has a history of revocation or negative action in this or another state,
    - h. Current negative cash flow,
    - i. Financial responsibility standards for accreditation are not being met, or
    - j. Evidence of inadequate financial responsibility or administrative capability.
- I.** The Board shall appoint a Finance Committee that consists of at least three member of the Board:
1. The Finance Committee shall comply with the open meeting requirements at A.R.S. Title 38, Chapter 3, Article 3.1.
  2. The Finance Committee shall assess the financial responsibility of an applicant or licensee.
  3. If the Finance Committee determines that the information submitted under this Section is not sufficient to demonstrate that an applicant or licensee has financial responsibility, the Finance Committee shall work with the applicant or licensee to improve the demonstration.
  4. After reviewing the information submitted under this Section, the Finance Committee shall determine that the applicant or licensee:
    - a. Has demonstrated financial responsibility and grant a license;
    - b. Has not demonstrated financial responsibility but grant a license contingent on the licensee doing one or more of the following:
      - i. Submitting quarterly reports,
      - ii. Submitting a financial improvement plan,
      - iii. Submitting two-year financial projections, and
      - iv. Posting a surety bond, cash deposit, or letter of credit that exceeds the amount determined under subsection (C);
    - c. Has not demonstrated financial responsibility and postpone action to allow the applicant or licensee to provide additional information; or
    - d. Has not demonstrated financial responsibility and refer the matter to the whole Board for Board action.

**R4-39-109. Supplemental License Applications**

- A.** A licensee shall submit to the Board an application for a supplemental license at least 45 days before doing any of the following:
1. Offering a new or additional vocational or degree-granting program;
  2. Operating from a 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 Board determines that the supplemental license application submitted under subsection (A) complies with A.R.S. §§ 32-3021 through 32-3051 and this Chapter.

**R4-39-110. Change of Ownership or Control**

- A.** In this Section, “change of ownership or control” is indicated by the following:
1. For a privately held corporation whose control is vested in those who control the voting stock of the corporation:
    - a. At least 50 percent of the voting stock changes from one owner to another within a five-year period; or
    - b. At least 50 percent of the assets of the corporation are sold regardless of whether the sale is called an asset or securities purchase, a stock or share exchange, or something else;
  2. For a publicly traded corporation whose control is vested in the voting members of the board of directors:
    - a. At least 50 percent of the voting members of the board of directors change within a 12-month period, or
    - b. At least 50 percent of the assets of the publicly traded corporation are sold regardless of whether the sale is called an asset or securities purchase, a stock or share exchange, or something else;
  3. For a non-profit corporation whose control is vested in the voting members of the board of trustees:
    - a. At least 50 percent of the voting members of the board of trustees change within a 12-month period, or
    - b. The chief executive officer of the non-profit corporation changes;
  4. For a limited partnership whose control is vested in a corporate general partner, the corporate general partner:
    - a. Has a change of ownership or control as determined under subsections (A)(1) through (A)(3); or
    - b. At least 50 percent of the assets of the corporate general partner are sold regardless of whether the sale is called an asset or securities purchase, a stock or share exchange, or something else;
  5. For a limited liability company whose control is vested in members who control a majority of the interest in the company:
    - a. At least 50 percent interest changes within a 12- month period; or
    - b. At least 50 percent of the assets of the limited liability company are sold regardless of whether the sale is called an asset or securities purchase, a stock or share exchange, or something else;

6. For a sole proprietor or a limited partnership that is not described in subsection (A)(4), if at least 50 percent interest changes within a five-year period; and
  7. For any business entity described in subsections (A)(1) through (A)(6), when the entity changes from one business form to another including when a non-profit entity becomes a for-profit entity or when a privately held corporation becomes a publicly traded corporation.
- B.** If assets are sold under subsection (A)(1), (A)(2), (A)(4), or (A)(5), regardless of whether the sale is called an asset or securities purchase, a stock or share exchange, or something else, the sale must transfer liabilities for students enrolled at the time of closing.
- C.** For the purposes of this Section, assets and liabilities are determined according to generally accepted accounting principles.
- D.** A change of ownership or control does not occur under subsection (A) if an interest is transferred by operation of law or inheritance to a parent, grandparent, spouse, or child.
- E.** A licensee shall, within seven days, notify the Board in writing and explain the following:
1. A change of ownership or control as described under subsection (A); or
  2. A change of interest or of the voting members of the board of directors of more than 20 percent but less than 50 percent.
- F.** No later than 60 days after the date on the notice provided under subsection (E), a licensed private accredited institution shall submit to the Board a license application packet that includes:
1. The filing fee required under R4-39-201(E);
  2. Either:
    - a. Information and documentation specified in R4-39-103 (D)(3) through (D)(10), as applicable, R4-39-104(D)(2), if required, and (D)(3) through (D)(6), (D)(8)(a) and (c) through (D)(12), (D)(14), and (D)(17); or
    - b. If required by an accrediting agency that accredits the licensee's programs or the institution through which the programs are offered, a copy of change of ownership documents submitted by the licensee to the accrediting agency;
  3. Attestation that the applicant will assume financial responsibility, as required under R4-39-404(C), for all student tuition refunds for which the institution has an obligation; and
  4. Other information determined by the Board to be relevant to determining the applicant's compliance with licensing requirements under A.R.S. Title 32, Chapter 30 and this Article.
- G.** No later than 60 days after the date on the notice provided under subsection (E), a licensed private non-accredited institution shall submit to the Board a license application packet that includes:
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)(3) through (D)(6), (D)(8)(a) and (c), (D)(12) through (D)(14) and (D)(17);
  3. For a private non-accredited degree-granting institution, information and documentation specified in

R4-39-103(D)(3) through (D)(10), as applicable, R4-39-104(D)(2) through (D)(6), (D)(8)(a) and (c), (D)(12) through (D)(14) and (D)(17);

4. Attestation that the applicant will assume financial responsibility, as required under R4-39-404(C), for all student tuition refunds for which the institution has a financial obligation; and
5. Other information determined by the Board to be relevant to determining the applicant's compliance with licensing requirements under this Article.

**H.** Except as specified in subsection (H)(6), the Board shall not grant a license as a result of a change of ownership or control to an applicant if:

1. Within 10 years before filing the application packet required in subsection (G) or (H) or since the start date of the current licensure period, an individual with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has been convicted in this state or any jurisdiction of any crime, regardless of whether the crime is a misdemeanor or felony, that a reasonable person would consider relevant to the legal and ethical operation of an educational institution;
2. Within 10 years before filing the application packet required in subsection (G) or (H) or since the start date of the current licensure period, a person with at least 20 percent ownership in the applicant or an officer or employee who controls, manages, or represents the applicant in this state has had a license to operate a vocational degree-granting institution revoked in this state or any jurisdiction;
3. The applicant provides false or misleading information on or with the application required by this Section;
4. The applicant was previously licensed by the Board and ceased operation without complying with R4-39-402 and R4-39-406; or
5. The applicant ceased to operate or offer a program and as a result:
  - a. The Board was obligated to make a payment from the Student Tuition Recovery Fund established under A.R.S. § 32-3072, or
  - b. The DE or a private entity forgave loans, in whole or in part, to affected students; and
6. If the conviction described in subsection (H)(1) was discharged, expunged, set aside, or vacated, the Board shall consider this fact when exercising its discretionary power under this Section.

**I.** The Board shall grant a license as a result of a change of ownership or control, 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 (F) or (G).

**J.** The Board may conduct an inspection, under A.R.S. § 41-1009, of an applicant's or licensee's place of business to determine compliance with the requirements of A.R.S. Title 32, Chapter 30 and this Article.

#### **R4-39-111. Honorary Degrees**

**A.** Only a currently licensed, accredited private degree-granting institution may apply to award an honorary

degree. Before offering to grant or granting an honorary degree, a currently licensed, accredited private degree-granting institution shall submit an application for a supplemental license for an honorary degree to the Board for the Board's verification, review, and administrative action.

- B.** The Board shall approve the application for a supplemental license for an honorary degree if the honorary degree is consistent with the institution's currently offered degree-granting programs.
- C.** An accredited private degree-granting institution whose application for a supplemental license for an honorary degree is approved shall ensure that the honorary degree identifies in its title or name and bears on its face that it is an honorary degree.

## **ARTICLE 2. FEES**

### **R4-39-201. Fees**

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

## **ARTICLE 3. OPERATION OF PRIVATE NON-ACCREDITED INSTITUTIONS**

### **R4-39-301. Catalog**

- A.** A licensee offering a non-accredited program shall ensure that the licensee has a catalog that includes the following information:
  - 1. The licensee's:

- a. Name;
  - b. Street, mailing, e-mail, and web site addresses, if applicable; and
  - c. Telephone and fax numbers;
2. If the licensee has a headquarters in another state or jurisdiction, the headquarters':
    - a. Street, mailing, e-mail, and web site addresses, if applicable; and
    - b. Telephone and fax numbers;
  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 licensee in this state, and
    - c. All members of executive management who live outside this state;
  5. A list of all programs offered by the licensee;
  6. For each program to be offered:
    - 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 equipment or technology;
    - e. Any required competencies;
    - f. Any clinical training, practica, externships, internships, or special features of the program;
    - g. Any graduate employment opportunities; and
    - h. Licensure requirements for a graduate to practice, if any;
  7. Any allowable student tuition reductions, discounts, and 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, discounts, and scholarships, educational loans, payment schedules, and financing options, if applicable;
  10. Refund policies that comply with R4-39-308 and R4-39-404;
  11. Any student services provided by the licensee;
  12. A description of:
    - a. Educational delivery systems used in the program, including classroom-based instruction, directed study, distance education, and online computer-based learning; and
    - b. Available library resources;
  13. For licensees 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; or

c. Explanation of the enrollment period;

14. Policies and regulations governing:

a. Admission requirements or program enrollment;

b. Program or course cancellation;

c. Grading procedures;

d. Change in student status, including:

i. Leave of absence;

ii. Readmission; and

iii. Probation, suspension, or expulsion;

e. Standards for satisfactory academic progress;

f. Graduation requirements;

g. Grade reports and transcripts; and

h. As applicable:

i. Student attendance; and

ii. Credit for previous education, training, work, or life experience; and

15. Student grievance procedure that meets the requirements at R4-39-104(D)(12).

**B.** A licensee offering a non-accredited program shall make the catalog required under subsection (A) available to students and prospective students in a written or electronic format.

**C.** Within 10 days from the date a licensee offering a non-accredited program revises the catalog required under subsection (A) or publishes a new catalog, the licensee shall submit to the Board a written or electronic copy of the revised or new catalog.

#### **R4-39-302. Facilities and Equipment**

**A.** A licensee offering a non-accredited program shall ensure that the:

1. Building, classrooms, equipment, furniture, grounds, instructional devices, and other physical facilities of the licensee are appropriate to achieve the educational objectives of the institution;

2. Physical facility and equipment comply with all:

a. Safety requirements and health standards of the city, county, state, and any other authority in which the facility is located; and

b. Local and state planning, building, zoning, and fire codes; and

3. Insurance required under R4-39-108 is adequate to protect the assets of the licensee in the event of damage or a finding of liability.

**B.** A licensee offering a non-accredited program shall comply with R4-39-109 before offering the non-accredited program from an unlicensed, new, or additional location.

#### **R4-39-303. Staff**

- A.** A licensee offering a non-accredited program shall ensure that:
1. The licensee has an on-site director who is qualified under subsection (B) and designated to carry out the duties under subsection (C);
  2. Each staff member communicates information regarding the licensee, programs, and educational services that is true and as represented in the licensee's catalog, required under R4-39-301, and brochures, promotional materials, or advertisements provided to or intended for students or potential students;
  3. The licensee has sufficient staff to provide instruction and educational services as represented in the licensee's catalog, required under R4-39-301, and 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 licensee's catalog, required under R4-39-301, and brochures, promotional materials, or advertisements provided to the student.
- B.** A licensee offering a non-accredited program shall employ an on-site director who is qualified as follows:
1. Is of good moral character; and
  2. Has academic, administrative and supervisory experience the Board determines is consistent with the ability to operate and deliver a non-accredited program.
- C.** The on-site director designated under subsection (A)(1) shall:
1. Supervise the day-to-day operation of the licensee;
  2. For each program to be offered by the licensee, implement a curriculum capable of preparing a student enrolled in the program:
    - a. To achieve the program's occupational objective,
    - b. To complete requirements for the program degree or other credential, and
    - c. To obtain a specific entry-level job covered in the program;
  3. Ensure that all faculty members meet the requirements in subsection (D) or (E); and
  4. Develop and implement a plan, with specific goals, benchmarks, and time frames, for faculty improvement.
- D.** A licensee offering a non-accredited vocational program shall ensure that a faculty member has:
1. At least two years of practical work experience in the subject the faculty member is teaching unless the faculty member is teaching in an emerging discipline in which case the Board shall consider an alternative standard to determine qualification of the faculty member;
  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;
  3. Taken teacher-training courses appropriate to the level of qualification required by the program offered; and
  4. Maintained professional competence by participating in continuing education.
- E.** A licensee offering a non-accredited degree-granting program shall ensure that a faculty member has:

1. At least two years of practical work experience in the subject the faculty member is teaching;
  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;
  3. Taken teacher-training courses appropriate to the level of qualification required by the program offered; and
  4. Maintained professional competence by participating in continuing education.
- F.** A licensee offering a non-accredited program shall ensure that:
1. Within 30 days after the director designated under subsection (A) resigns, is terminated, or is otherwise unable to fulfill all responsibilities established under subsection (C), the Board is notified in writing; and
  2. Within 30 days after the licensee designates a new director, a completed form, which is available from the Board, describing the new director's professional and educational background is submitted to the Board.

#### **R4-39-304. Advertising**

- A.** A licensee offering a non-accredited program shall ensure that all advertising is truthful and does not include a false or misleading statement about the institution, personnel, faculty, courses, diploma or certificate awarded, services, or occupational opportunities for a graduate.
- B.** The Board may institute disciplinary proceedings against a licensee offering a non-accredited program or the licensee's representative for false or misleading advertising.
- C.** A licensee offering a non-accredited program shall not solicit students in:
1. The "help wanted" section of a newspaper, magazine, or other publication, regardless of whether the publication is printed or online; or
  2. Employment or unemployment lines in which individuals stand while seeking work or benefits.
- D.** A licensee offering a non-accredited program shall not use any form of the word "guarantee" or "free" in solicitations or advertising in:
1. A brochure, catalog, bulletin, leaflet, or other publication of the licensee; or
  2. A newspaper, magazine, or similar publication, regardless of whether the publication is printed or online.
- E.** A licensee offering a non-accredited program shall ensure that all printed advertising includes the name, phone number, and address of the licensee.
- F.** **The Board shall review the catalog, brochure, promotional document, uniform resource locator, student enrollment agreement, and other materials submitted under R4-39-104 to ensure the materials comply with the requirements of this Section.**

#### **R4-39-305. Recruitment**

- A.** A licensee offering a non-accredited program shall ensure that all information contained in the licensee's catalog, required under R4-39-301, and in 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 licensee offering a non-

accredited program:

1. May provide a student tuition reduction, discount, or scholarship, or educational loan only as authorized under R4-39-308; and
  2. Shall not guarantee employment to a prospective student.
- C. A licensee offering a non-accredited program 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, discounts, or scholarships, educational loans, payment schedules, financing options, or refunds.

#### **R4-39-306. Admission Requirements**

- A. A licensee offering a non-accredited program shall establish, publish, and administer admission requirements.
- B. If an entrance exam is required for admission, a licensee offering a non-accredited program shall:
1. Set a minimum passing score for admission that is consistent with the standard established by the exam developer,
  2. Admit only an individual who obtains the minimum passing score on the entrance exam,
  3. Maintain a copy of the completed entrance exam in the student's permanent record, and
  4. Not allow an individual who fails the entrance exam to take the exam again within 30 days.
- C. If an entrance exam is not required for admission, a licensee offering a non-accredited program shall admit only an individual who demonstrates the ability to satisfactorily complete the prescribed training through:
1. Initial interview,
  2. Letter of recommendation,
  3. High school diploma, certificate of high school equivalency, or completion of a secondary education in a home school setting that complies with all state law;
  4. Official educational transcripts; or
  5. Other requirements established by the licensee.

#### **R4-39-307. Placement**

If a licensee offering a non-accredited program offers placement services to a student, the licensee shall:

1. Maintain evidence of a student referral for job placement that includes the following information:
  - a. The name of the student referred,
  - b. The name of the prospective employer,
  - c. Result of referral, and
  - d. Final placement or other disposition;
2. Prepare a student for placement by instructing the student in:

- a. Resume preparation and interviewing procedures,
  - b. Appropriate dress and personal grooming, and
  - c. Conduct on the job;
3. Ensure that a student or graduate understands that a list of potential employers given to the student or graduate by the licensee is not a referral or offer of placement; and
  4. Ensure that each student application clearly indicates that job placement is not guaranteed to a graduate or student.

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

- A.** A licensee offering a non-accredited program may charge students enrolled in the same program different tuition and student fees, only:
1. After publishing notice of a program price change to be effective for all students enrolling in the program or starting classes on or after a specified date;
  2. For students who have chosen to modify programs or services so that a tuition reduction is warranted;
  3. For students requiring additional services or otherwise incurring additional charges;
  4. For students who are eligible for tuition reductions associated with payment schedules, financing options, or educational loans;
  5. For students meeting tuition discount eligibility requirements in subsection (B); or
  6. For students receiving tuition scholarships under subsection (C).
- B.** A licensee offering a non-accredited program that offers a tuition discount shall:
1. Publish in the licensee's catalog, required under R4-39-301, allowable tuition discounts and student eligibility requirements for each tuition discount, including tuition discounts for students:
    - a. Enrolling as part of a group,
    - b. Who are similarly situated, or
    - c. Enrolling under the same program or course schedule; and
  2. Make tuition discounts available to all students who meet eligibility requirements.
- C.** A licensee offering a non-accredited program that offers a full or partial tuition scholarship shall:
1. Publish in the institution's catalog, required under R4-39-301, available tuition scholarships and student eligibility requirements for each tuition scholarship, 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 licensee offering a non-accredited program that offers a full or partial educational loan shall:
1. Publish in the licensee's catalog, required under R4-39-301, available full or partial educational loans and student eligibility requirements for each full or partial educational loan, 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 licensee offering a non-accredited program that offers payment schedules or financing options shall:
- 1. Publish in the licensee's catalog, required under R4-39-301, payment schedules and financing options and student eligibility requirements for each payment schedule and financing option, 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 licensee offering a non-accredited program:
- 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 licensee offering a non-accredited program shall have a refund policy that:
- 1. Applies to all students,
  - 2. Meets the requirements in R4-39-404, and
  - 3. Is described using identical language in both the catalog that is required under R4-39-301 and the student enrollment agreement that is required under R4-39-104 and meets the standards at R4-39-401.
- H.** A licensee offering a non-accredited program shall ensure that all student tuition, student fees, tuition reductions, discounts, and 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 licensee's catalog, required under R4-39-301, and any brochures, promotional materials, or advertisements provided to or intended for students or potential students; and
  - 3. Authorized under this Section.
- I.** A licensee offering a non-accredited program 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.

#### **ARTICLE 4. OPERATION OF ALL LICENSED INSTITUTIONS**

##### **R4-39-401. Student Records**

- A.** For students enrolled after the effective date of this Section, a licensee shall maintain records required under this Section in electronic form. The licensee shall ensure that the electronic records are not in a proprietary format and are easily searchable by student.
- B.** A licensee shall maintain a complete, accurate, and permanent record for each student ever enrolled. The licensee shall ensure that the student record includes the following:
1. An enrollment agreement containing, but not limited to, the following information:
    - a. Name and address of student;
    - b. Date the program begins;
    - c. Total clock or credit hours of the program;
    - d. Payment schedule and total cost to the student;
    - e. Refund policy of the licensee;
    - f. A statement indicating that the individual signing the agreement has read and understands all aspects of the agreement;
    - g. The notice required under 16 CFR 433;
    - h. A clear statement by the licensee that the licensee does not guarantee:
      - i. Job placement to graduates when the program is complete; or
      - ii. Credits or coursework will transfer to another school, college, or university;
    - i. If the licensee requires arbitration as part of the student grievance procedure, the following statement: Arbitration of a student grievance is required. Arbitration will take place at a location reasonably convenient for both parties giving due consideration to the student's ability to travel and other pertinent circumstances. Both parties will attempt to have proceedings take place within a reasonable time and without undue delay. The arbitration proceedings will follow the spirit if not the letter of the consumer due process protocol of the American Arbitration Association. The protocol includes but is not limited to a fundamentally fair process; an independent and impartial, competent, and qualified arbitrator; independent administration of the arbitration; reasonable cost; right to representation; and possibility of mediation. Arbitration does not preclude other avenues of recourse, including but not limited to possible relief in small claims courts, unless and until the arbitration result is made binding. Arbitration of a student grievance does not preclude the student from seeking a remedy from the Arizona Board of Private Postsecondary Education;
    - j. A notice of the right to cancel the enrollment agreement within three days by complying with R4-39-404(A); and
    - k. Signature of the student and an official of the licensee;
  2. Copy of the entrance exam, if applicable;
  3. A transcript;
  4. Grades received, where applicable;
  5. Student attendance information;

6. Counseling records; and
  7. A record of all obligations incurred and all funds paid by or on behalf of the student to the licensee.
- C.** A licensee shall maintain financial aid records for each student for the length of time required by the DE.
- D.** A licensee shall make student records available and readily accessible for use and review by an authorized official of the licensee or authorized representative of the Board.
- E.** A licensee that gives credit toward a course based on job experience, training, or life experience shall record that credit in the student's official transcript, which is part of the student record required under subsection (B). The licensee shall ensure the student's official transcript shows the portion of the course for which the student is given credit based on job experience, training, or life experience.
- F.** In addition to the information required under subsections (B), and (E), a licensee shall include the following information, as applicable, in the record of a student who graduates:
1. Job placement provided, and
  2. Place of employment and beginning salary after graduation.
- G.** A licensee shall ensure that records required under this Section:
1. Whether in paper or electronic form, are maintained securely and protected against damage or loss from fire, water, theft, tampering, or other harm;
  2. Are maintained in perpetuity or submitted to the Board under R4-39-402; and
  3. Are made available and readily accessible for use and review by an authorized representative of the Board.

**R4-39-402. Preservation of Records**

- A.** No more than 15 days after a licensee ceases operation, the licensee shall submit to the Board a legible copy of all student records required in R4-39-401. The licensee shall submit the student records in electronic form if the records exist in electronic form. The licensee shall ensure that records in electronic form are in a non-proprietary format.
- B.** After a licensee submits records to the Board as required under subsection (A), the Board shall retain for each student the enrollment agreement, transcript, account ledger card, and a copy of the diploma or degree conferred. The Board shall retain these records according to the retention schedule approved by the Arizona State Library, Archives, and Public Records.

**R4-39-403. Complaint Procedures**

- A.** If a student has a complaint against a licensee and exhausts all available grievance procedures, including all appeals, established by the licensee, the student may file a written complaint with the Board. The student shall ensure that the complaint is filed within two years after the latest of the following. The date on which the student:
1. Last attended the licensee;

2. Completed the licensee's grievance procedure, including all appeals; or
  3. Is able to demonstrate that the licensee failed to follow the licensee's grievance procedure.
- B.** A student who files a complaint under subsection (A) shall:
1. Use a form that is available from the Board,
  2. Sign the form and attest that all information provided is true and correct, and
  3. Attach to the form documentation that supports the allegations on which the complaint is based.
- C.** The Board shall not accept an anonymous complaint. An individual, whether a student or non-student, who files a complaint may request to remain anonymous to the licensee if the individual believes the complaint may result in adverse action towards the individual. The Board cannot, however, guarantee that disclosure of the individual's identity will not occur in the process of honoring the licensee's due process rights.
- D.** The Board shall not accept a complaint regarding a grade dispute or the licensee's employment practices or compliance with the Americans with Disabilities Act.
- E.** After the complaint committee authorized under A.R.S. § 32-3052(D) reviews the complaint and the results of the staff investigation of the complaint, the complaint committee shall take one of the actions defined under A.R.S. § 32-3052(E).
- F.** If a non-student has a complaint against a licensee, the non-student may file a written complaint with the Board. The non-student complainant shall ensure that the complaint is filed within one year from the date on which the event prompting the complaint occurred.
- G.** Subsections (B) through (E) apply to non-student complaints.

**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 the person that paid the student's tuition and student fees a refund of 100 percent of all student fees and tuition paid.
- C.** A licensee offering an accredited program shall develop and implement policies and procedures for cancellations and tuition refunds that:
1. Are published in the catalog that meets the accreditation standards established by each accrediting agency named in R4-39-103(D)(3) and the enrollment agreement required under R4-39-401;
  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. DE requirements governing each federal student financial aid program in the agreement under

R4-39-103(D)(6) or (F)(1)(b).

- D.** A licensee offering a non-accredited program shall develop and implement policies and procedures for cancellations and tuition refunds that:
1. Are published in the catalog required under R4-39-301 and enrollment agreement required under R4-39-401;
  2. Are applicable to all students;
  3. Are based on an established time period for each program that:
    - a. Has a prescribed student tuition obligation and tuition refund calculation; and
    - b. Does not exceed the full length of the program or one calendar year, whichever is less;
  4. Allow the licensee to retain an administrative fee or registration fee not to exceed \$200.00 if the fee is published in the catalog required under R4-39-301 and enrollment agreement required under R4-39-401;
  5. Provide the following refunds for a student who withdraws from or is terminated by the licensee:
    - 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 used under subsection (D)(3) 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 used under subsection (D)(3) 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 used under subsection (D)(3) 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 used under subsection (D)(3) 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 used under subsection (D)(3) 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 used under subsection (D)(3) has expired, no refund or a refund in an amount determined by the licensee.
- E.** When calculating a refund under subsection (D)(5), a licensee offering a non-accredited program shall:
1. Use the last date of attendance as the date of withdrawal or termination to determine the percentage of time in the program that expired;
  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. Using the date established under subsection (E)(1), base the percentage of the time expired on either clock hour elapsed for a program measured in clock hours or the number of days elapsed since the start of the period established under subsection (D)(3).
- F.** A licensee offering a non-accredited program is exempt from the requirement in subsection (D)(5), regarding refunding tuition and fees, for a program that:

1. Is less than 50 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.

**R4-39-405. Repealed**

**R4-39-406. Ceasing to Operate or to Offer a Program; Teach-out Plan**

- A.** At least 60 days before a licensee ceases to operate or to offer a program in which a student is enrolled, the licensee shall determine whether there is another institution able and willing to offer a teach-out program to students enrolled with the licensee. If another institution is able and willing to offer a teach-out program, the licensee and teach-out institution shall enter a contract with the following terms:
1. The teach-out institution shall offer each student affected by the licensee ceasing to operate or to offer a program, an opportunity to resume and complete the program in which the student is enrolled, or a substantially similar program, within a reasonable time and same geographic area as the licensee;
  2. The teach-out institution shall provide each affected student with timely notice of the availability of the teach-out program including information about differences between the teach-out program and the program in which the student is enrolled with the licensee;
  3. The teach-out institution shall advertise the availability of the teach-out program;
  4. The teach-out institution shall provide equitable treatment to the students in the teach-out program;
  5. The teach-out institution shall not alter the mission or operations of the teach-out institution for currently enrolled students; and
  6. The teach-out institution shall affirm the institution has the capacity to provide teach-out students with all instruction and services the teach-out students contracted for but did not receive from the licensee.
- B.** At least 60 days before a licensee ceases to operate or to offer a program in which a student is enrolled, the licensee shall submit for review by the Board a teach-out plan that includes the following:
1. A list of all students who will be affected by the licensee ceasing to operate or to offer a program,
  2. For each student identified under subsection (B)(1):
    - a. Name of program in which the student is participating, and
    - b. Estimated graduation date; and
  3. Whether the teach out will occur at the licensee, a teach-out institution with which the licensee has a contract under subsection (A), or a combination of the licensee and teach-out institution. If the teach out will occur, in whole or in part, at a teach-out institution:
    - a. Whether the teach-out institution will use faculty of the licensee to complete the teach out;
    - b. Whether the degree, diploma, or certificate awarded on completion of the teach-out program will be awarded by the licensee or the teach-out institution;

- c. Whether students who are enrolled but not attending the licensee or those on a leave of absence from the licensee are entitled to participate in the teach-out program; and
  - d. A copy of the contracts, if any, entered under subsection (A).
- C. At least 30 days before a licensee ceases to operate or to offer a program in which a student is enrolled, or makes a teach-out program available to a student enrolled in a program that the licensee will cease to offer, the licensee shall provide written notice of ceasing to operate or to offer the program, or availability of the teach-out program to:
  - 1. Each enrolled student affected by the licensee's decision to cease to operate or to offer a program, and
  - 2. The Board.
- D. Except as provided in subsections (E) and (F), no later than 30 days after a licensee ceases to operate or to offer a program in which a student is enrolled, the licensee shall provide a refund of 100 percent of student fees and tuition paid by the student or other funding source on behalf of the student.
- E. The refund requirement in subsection (D) does not apply if a student enrolled in a licensee that ceases to operate or in a program that the licensee ceases to offer transfers to another institution and receives training or academic credit comparable to the training or academic credit that the student would have received if the licensee had not ceased to operate or to offer the program.
- F. The refund requirement in subsection (D) does not apply if a licensee that ceases to offer a program in which a student is enrolled provides the student an alternative program that is equivalent to the program no longer offered, 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.
- G. This Section applies to a licensee regardless of whether the licensee is at fault in the closure of the licensee or the cessation of a program.

**R4-39-407. Use of Terms**

- A. Except as provided in subsection (B), only an accredited, degree-granting licensee may use the term "university" or any other name or title in literature, catalogs, pamphlets, or other materials made available to the public that implies or would lead a reasonable person to believe the licensee is an institution of higher education or grants educational credentials, academic credit, or professional degrees.
- B. A licensee may use the term "university" in its name if the licensee:

1. Offers at least one program leading to a post-baccalaureate or higher degree and is regionally or nationally accredited by a DE-recognized accrediting agency;
  2. Was licensed in this state and used the term “university” in its name before the effective date of this Section; and
  3. Is chartered or licensed in another state using the term “university” in its name.
- C. A licensee may use terms such as “certified,” “master,” and “professional” in a program title, advertising, and student materials if a student is designated as “certified,” “master,” or “professional” only:
1. After the student completes the program and passes an examination that requires a showing of proficiency or ability;
  2. If the designation is:
    - a. Conferred by a nationally recognized industry-related organization;
    - b. Conferred by an industry-related board or commission that is statutorily created; or
    - c. A commonly accepted industry practice; and
  3. If the diploma to be issued from a program is submitted to the Board for review before the program is offered.
- D. A licensee shall not use the term “master’s” in the title of a vocational program.

**R4-39-408. Transfer of Credit**

- A. A licensee may accept credit that a student earned for a course completed at another postsecondary education institution if the licensee determines that the course is comparable in scope and content to a course offered by the licensee.
- B. A licensee that intends to allow a student to transfer credit from another postsecondary education institution to the licensee shall establish a transfer policy that:
1. Is based on appropriate criteria such as:
    - a. Comparability in scope and content,
    - b. Applicability to the program into which transfer is requested,
    - c. Competencies achieved in the course for which credit is to be transferred and whether the competencies align with the program into which transfer is requested,
    - d. Preparedness of the student at the time of transfer,
    - e. Age of the credit to be transferred, and
    - f. Grade earned in the course to be transferred;
  2. Is not based solely on whether the postsecondary education institution or program from which credit is to be transferred is accredited and if accredited, the accrediting agency;
  3. Requires that at least 25 percent of the credit required to complete a non-degree or undergraduate program be obtained from the licensee;
  4. Requires that more than 50 percent of the credit required to complete a graduate degree program be

obtained from the licensee;

5. Is applied in a systematic and consistent manner; and
  6. Is published in the catalog required under R4-39-103(D)(9) or R4-39-301, as applicable.
- C. A licensee that has a transfer policy as described under subsection (B) shall place in a student's record a copy of the transcript from the postsecondary education institution from which a transfer of credit is sought.

## **ARTICLE 5. INVESTIGATIONS; HEARING PROCEDURES; and ASSESSING COSTS**

### **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 that is the subject of a Board investigation.
- B. Board staff may request production of records or information from an investigated party or complainant, and request an interview with an employee or agent of the investigated party. The investigated party may file written objections with the Board regarding the Board's request for production of records or information or an interview within 15 days after receipt of the request. Unless the investigated party timely files an objection to the Board's request, the investigated party shall produce the requested documents or information and make an employee or agent of the investigated party available for interview by the Board. Board staff shall attempt to resolve informally an objection to a request for documents, information, or an interview. If no resolution is reached, the Board shall hear and decide the matter.
- 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. When an investigation is complete, 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 any of the actions specified in A.R.S. § 32-3052(E).
- F. If the Complaint Committee refers the matter to the Board, the Board shall assess the information provided and take any of the actions authorized under A.R.S. § 32-3052((F) through (J).

### **R4-39-502. Hearings**

- A. The Board shall ensure that all hearings are 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 on 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 any time to clarify procedures for the hearing or 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 on 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).

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

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B.** Except as provided in subsection (J), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies.
- C.** 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 for the rehearing or review as provided in subsection (E).
- D.** A motion for rehearing or review may be amended at any time before the Board rules on the motion. A response may be filed by any other party within 15 days after a motion or amended motion is filed. The Board may require that written briefs be filed on the issues raised in the motion and may provide for oral argument.
- E.** 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 or any order or abuse of discretion that deprived 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;
  7. The Board's decision is the result of passion or prejudice; or
  8. The findings of fact or decision are not justified by the evidence or is contrary to law.
- F.** The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (E). The Board shall specify the particular grounds for any order

modifying a decision or granting a rehearing.

- G.** No later than 10 days after the date of a decision and after giving the parties or their counsel notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. A rehearing or review shall cover only those matters specified in the Board's order.
- H.** When a motion for rehearing or review is based on 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.
- I.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the date on the order granting the rehearing.
- J.** If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final decision without an opportunity for rehearing or review.

**R4-39-504. Assessing Costs**

As authorized under A.R.S. § 32-3052(M), the Board may assess a person that is determined to have violated any provision of A.R.S. Title 32, Chapter 30 and this Chapter the Board's reasonable costs and expenses, including attorney fees, incurred in conducting an investigation, informal interview, committee or Board meetings, or administrative hearing.

**ARTICLE 6. STUDENT TUITION RECOVERY FUND**

**R4-39-601. Submission of Assessments**

- A.** Before September 30 of each year, the Board shall provide written notice to each licensee specified in A.R.S. § 32-3072(B) from which an assessment, as defined in A.R.S. § 32-3071(1), is due. The Board shall send the notice by certified mail and ensure that the notice specifies the amount of the assessment, date the assessment is due, and penalty for failing to pay the assessment timely. As authorized by A.R.S. § 32-3072(B), the Board shall determine the amount of the assessment as follows:
  - 1. The assessment for a licensee 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 licensee shall be based on the number of newly enrolled students during the fiscal year ending June 30.
- B.** Using data available on June 30, the Board shall determine annually the amount of funds in the Student Tuition Recovery Fund ("Fund"). If the Fund balance exceeds \$500,000, the Board shall require an

assessment only from a licensee that was newly or provisionally licensed during the fiscal year that ended on June 30.

- C. If a licensee disputes the amount of an assessment, the Board shall place the matter on the agenda for a public meeting. The licensee disputing an assessment shall be prepared to:
1. Submit information or documents showing why the assessment is believed to be incorrect; and
  2. Have a representative present to address the Board.

**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 (6); and
    - b. The claim is filed within one year after the licensee ceased operations;
  2. The claim is invalid because:
    - a. It is filed more than one year after the licensee ceased operations;
    - b. The claimant is participating in a teach-out; or
    - c. The claimant voluntarily transferred to another institution and received different training for the same or greater cost than was paid to the licensee that ceased operations.
- B. If the Board finds a claim is 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 student 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 a student-loan holder for the amount owed on the loan, and then to the student or other person for the amount already paid on the student loan or cash payments.
- C. The Board shall pay a valid claim within 120 days after 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.

**R4-39-603. Student Record Requests**

- A. The Board shall maintain the student records of a licensee that ceases operations as specified in R4-39-402(B). For purposes of this Section, "student records" has the meaning in R4-39-401.
- B. The Board shall provide the student records of a student who attended a licensee that ceased operations, if the following are submitted:
1. Name and social security number of the student;
  2. Name of the licensee that ceased operations;
  3. Student name used while attending the licensee that ceased operations;

4. Identification of the student record requested;
5. Name and address of the party to whom the student record is to be mailed;
6. Signature of the student whose record is requested or a student record release form signed by the student whose record is requested and authorizing a third party to obtain the student record, if applicable; and
7. \$10 for processing the request and 25 cents per page for copying.