

AGENDA ITEM EXECUTIVE SUMMARY: Proposed Procedures for Rule and Policy Adoption

Issue

Board staff is proposing procedures for the adoption of rules and policies by the Board.

Background

Senate Bill 1055 amends A.R.S. §§ 15-182 (E)(1) (2018) and 41-1005 (G) (2018) to allow the Board to adopt rules and policies for itself and the schools it sponsors. SB1055 was signed by the Governor on February 13, 2018 and will become effective on the ninety-first day after the legislature adjourns its current session.

Process

The document outlining the procedures for the adoption of rules and policies by the Board is included in *Appendix A: Procedures for Rule and Policy Adoption* and summarized below:

1. The public will be given two opportunities for public comment on proposed rules and policies through the following two processes:
 - a. Public comment may be considered at a Board meeting in which the Board will review draft language of the proposed rule or policy and provide additional guidance to Board staff; or
 - b. The proposed rule or policy will be posted and available on the Board's website and be open for public comment for no less than 20 calendar days. Each proposed rule and policy posted on the Board's website shall contain a summary, date, contact information, and supplementary information (as applicable).
2. Upon the conclusion of the first opportunity for public comment, the Board may consider the adoption of the proposed rule or policy at a subsequent Board meeting. The rule or policy shall be presented in writing as a specifically identified agenda item at a meeting of the Board for its consideration.
3. The Board shall consider the fiscal impact of any proposed rule.
4. Unless otherwise specified by the Board, rules or policies adopted by the Board shall be effective immediately upon Board approval.
5. All rules adopted by the Board shall be submitted for publication to the Secretary of State's Office for publication.
6. Following the meeting in which the rule or policy was adopted or amended, notice of the Board's action shall be included in the first Board newsletter and posted on the Board's website.
7. These procedures also include a process for emergency rulemaking that is only utilized if the Executive Director and the Board determine that a rule or policy is necessary based on specific criteria as outlined in the procedure document.
 - a. During the emergency rulemaking process, the public will be given two opportunities for public comment on the proposed rule or policy, however, the timeframe for offering public comment may be less than 20 calendar days.



Appendix A: Procedures for Rule and Policy Adoption



Procedures for Rule and Policy Adoption

The purpose of this statement is to give notice of the process through which the Board will adopt rules and policies for itself and the schools it sponsors, upon the effective date of SB1055, 53rd Leg., 2nd Reg. Sess. (2018).¹

Background

A.R.S. §15-182(E)(1)(2018) states:

The state board for charter schools shall:

1. Exercise general supervision over charter schools that are sponsored by the board, recommend legislation pertaining to charter schools to the legislature and adopt rules and policies that the board deems necessary to accomplish the purposes prescribed in this section.

A.R.S. § 41-1005(G)(2018) states:

Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board for charter schools, except that the board shall adopt policies or rules for the board and the charter schools sponsored by the board that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. The board shall provide at least two opportunities for public comment. The state board for charter schools shall consider the fiscal impact of any proposed rule pursuant to this subsection.

Definitions

The following definitions apply, unless the context otherwise requires:

1. "Agenda item" means a specified matter listed on an agenda included as part of the public notice of a Board meeting pursuant to A.R.S. §38-431.02.
2. "Board" means Arizona State Board for Charter Schools
3. "Rule" means a statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the Board. Rule includes prescribing fees or the amendment or repeal of a prior rule. A.R.S. §41-1001(19).
4. "Rulemaking" means the process for formulation and finalization of a rule. A.R.S. § 41-1001(20).

Procedures for the Adoption of Rules and Policies by the Board

First Opportunity for Public Comment

1. The first opportunity for public comment may occur through the following two processes:

¹ SB1055, signed by the Governor on February 13, 2018, will become effective on the ninety-first day after the legislature adjourns its current session sine die.



- a. Public comment may be considered at a Board meeting in which the Board will review draft language of the proposed rule or policy and provide additional guidance to Board staff. The rule or policy shall be presented in writing as a specifically identified agenda item at a meeting of the Board; or
- b. The proposed rule or policy will be posted and available on the Board's website and be open for public comment for no less than 20 calendar days. Each proposed rule and policy posted on the Board's website shall contain a summary, date, contact information, and supplementary information (as applicable).
2. Board communications regarding any proposed rule or policy and opportunity for public comment may be announced through the Board newsletter or Board meetings.
3. Any person may submit in writing, statements, comments, arguments, data and views on the proposed rule or policy to the Board through the Board's website.

Second Opportunity for Public Comment/Board Consideration

4. Upon the conclusion of the first opportunity for public comment, the Board may:
 - a. Consider the adoption of the proposed rule or policy. The rule or policy shall be presented in writing as a specifically identified agenda item at a meeting of the Board for its consideration. At this meeting, the public has a second opportunity for public comment; or
 - b. The proposed rule or policy will be posted and available on the Board's website and be open for a second public comment for no less than 20 calendar days. Each proposed rule or policy posted on the Board's website shall contain a summary, date, contact information, and supplementary information (as applicable). The Executive Director has discretion to post the proposed rule or policy multiple times for public comment.
5. If the Board has posted the proposed rule or policy on the Board's website for public comment, the Board shall consider adoption of the proposed rule or policy. The proposed rule or policy shall be presented in writing as a specifically identified agenda item at a meeting of the Board.
6. The proposed rule or policy may include modifications as a result of Board member, staff or public input.
7. At every meeting in which the Board considers adoption of the proposed rule or policy, the Board shall be provided with a copy of the proposed rule or policy and a memorandum summarizing the written public comments.
8. The Board shall consider the fiscal impact of any proposed rule.
9. The Board may, at its discretion, request an additional meeting of the Board to be held for the purpose of obtaining additional comment on the proposed rule or policy.
10. The Board may, at its discretion, postpone its consideration of a proposed rule or policy.
11. Unless otherwise specified by the Board, rules or policies adopted by the Board shall be effective immediately upon Board approval.

Emergency Rule Making

The Executive Director may determine that an emergency rule making process be utilized for a proposed rule or policy if a rule or policy is necessary to do any of the following:

1. Protect the public health, safety or welfare;
2. Comply with deadlines in amendments to an agency's governing law or federal programs;



3. Avoid violation of federal law or regulation or other state law;
4. Avoid an imminent budget reduction; or
5. Avoid serious prejudice to the public interest or the interest of the parties concerned.

The public must have at least two opportunities to provide public comment, as indicated above, on the proposed rule or policy; however, the timeframe for offering public comment may be less than 20 calendar days. During a meeting of the Board, the Board during its consideration to adopt the rule or policy must determine that it was appropriate to utilize the Emergency Rule Making process or must provide additional opportunity for public comment on the rule or policy.

Request for Copies - The Executive Director of the Board shall cause copies of a proposed rule or policy to be available to each person who makes a request. A charge for the actual cost of providing a copy of the proposed rule or policy may be assessed in accordance with Title 39 of the Arizona Revised Statutes.

Publication

1. All rules adopted or amended by the Board shall be submitted to the Secretary of State's Office for publication.
2. Following the meeting in which the rule or policy was adopted or amended, notice of the Board's action shall be included in the first Board newsletter and posted on the Board's website.

Historical Note:

Effective: August XX; 2018

Board Approval Date: DATE

