

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

PREAMBLE

- |   |                                 |
|---|---------------------------------|
| <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| Table 1   | Amend                           |
  
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 15-182(E)(5)

Implementing statute: A.R.S. §§ 15-182(E)(1) and 15-183(R)

Statute or session law authorizing the exemption: A.R.S. § 41-1005(G)
  
- 3. The effective date of the rule and the agency’s reason it selected the effective date:**

November 22, 2021, which is the date of the Board meeting at which the Board adopted the final rules.
  
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

Not applicable
  
- 5. The agency’s contact person who can answer questions about the rulemaking:**

Name: Ashley Berg, Executive Director

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or

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- 6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

A.R.S. § 15-183(R) requires the Board, as a sponsoring entity of a charter school, to ground its actions in evidence of the charter holder’s performance in accordance with the Board’s performance framework and requires the Board’s performance framework to include the financial expectations of the charter school. In August 2021, the Board approved changes to its Financial Performance Framework rules, including the addition of two tables to A.A.C. R7-5-402. Recently, Board staff has determined information contained in the second footnote of Table 1 does not accurately capture the average daily membership (“ADM”) criteria approved by the Board at its April 12, 2021 meeting. The Board is amending its rules to correct the second footnote to accurately identify which year is considered “year 1” in Table 1’s “Percent Loss of Total ADM” calculation.
  
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

The footnote correction to Table 1, which only applies to charter holders placed “On Probation,” is expected to have no economic impact as Board staff obtains the “year 1” ADM data used in the Table 1 calculation from the Arizona Department of Education’s website and not from the “On Probation” charter holder.

**10. A description of any changes between the proposed rules, including any supplemental proposed rules, and the final rules (if applicable):**

No changes were made.

**11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

The rules were open for the first opportunity for public comment from October 21, 2021 through November 9, 2021. During the public comment period, no public comments were received on the rules. The second opportunity for public comment occurred at the Board’s November 22, 2021 meeting with no public comments on the rules received.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material and its location in the rule:**

None

**14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

None of the rules in this rulemaking was made, amended, or repealed as an emergency rule.

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

**TITLE 7. EDUCATION**  
**CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS**  
**ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS**

Section

Table 1. ADM Category Criteria

**ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS**

**Table 1. ADM Category Criteria**

<b>Small and Medium Charter Holders (Less than 600 ADM)</b>			
<b>ADM Category</b>	<b>Estimated ADM Measure Performance<sup>1</sup></b>		<b>Percent Loss of Total ADM<sup>2</sup></b>
Low Risk	Greater than 0 to negative 4.99%	or	0 to 9.99% decline
Moderate Risk	Negative 5% to negative 14.99%	or	10% to 19.99% decline
High Risk	Negative 15% or more	or	20% or more decline
<b>Large Charter Holders (600 or more ADM)</b>			
<b>ADM Category</b>	<b>Estimated ADM Measure Performance<sup>1</sup></b>		<b>Percent Loss of Total ADM<sup>2</sup></b>
Low Risk	Greater than 0 to negative 2.99%	or	0 to 7.99% decline
Moderate Risk	Negative 3% to negative 9.99%	or	8% to 14.99% decline
High Risk	Negative 10% or more	or	15% or more decline

<sup>1</sup> The “Estimated ADM Measure Performance” considers the charter holder’s estimated performance on the Average Daily Membership measure for the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504.

<sup>2</sup> The “Percent Loss of Total ADM” considers the percent change in the charter holder’s ADM from the oldest year (year 3) to the most recent year (year 1) in a three-year period. To align with the year references used in the average daily membership calculation, the “oldest year” or year 3 is considered the fiscal year of the prior to the most recent audit conducted under R7-5-504 (year 3) and the “most recent year” or year 1 is the most recently completed fiscal year to the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504 (year 1). For example, this means for a charter holder identified as “On Probation” following the review of the fiscal year 2021 audit year 3 would be fiscal year 2020 and year 1 would be fiscal year 2022.