

NOTICE OF FINAL EXEMPT RULEMAKING
TITLE 7. EDUCATION
CHAPTER 7. RESERVED CAREER TRAINING AND WORKFORCE PROGRAM
PREAMBLE

1. Articles, Parts, and Sections Affected

Rulemaking Action

Article 1	New Article
R7-7-101	New Section
R7-7-102	New Section
R7-7-103	New Section
R7-7-104	New Section
R7-7-105	New Section
R7-7-106	New Section
R7-7-107	New Section
R7-7-108	New Section
R7-7-109	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 15-1283(B)

Implementing statute: A.R.S. § 15-1283

Statute or session law authorizing the exemption: Proposition 208, Sec 7.

3. The effective date for the rules and the reason the agency selected the effective date:

XXX, 2021: Under Section 7 of Proposition 208, the Department is exempt from all rulemaking requirements at A.R.S. Title 41, Chapter 6 and 6.1. This includes exemption from A.R.S. § 41-1032 dealing with the effective date of rules. The Department has determined an immediate effective date is necessary under A.R.S. § 15-1283(B) and (C), which require the Department to make rules within nine months after the effective date of the statute (November 30, 2020) and to accept grant applications no later than a year after that effective date.

4. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

None

5. The agency's contact person who can answer questions about the rulemaking:

Name: Laura Flores

Address: 1535 W Jefferson St
Phoenix, AZ 85007

Telephone: 602-542-1883

E-mail: laura.flores@azed.gov

Web site: www.azed.gov

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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In November 2020, the citizens of Arizona approved Proposition 208, called the Invest in Education Act, which imposes a 3.5 percent surcharge on incomes of more than \$250,000 (\$500,000 for married couples) to fund K-12 education. Part of the funds collected under Proposition 208 are deposited into the career training and workforce fund (See A.R.S. § 15-1282) to be used to establish a career training and workforce program (See A.R.S. § 15-1283). Under the program, the Department is to award grants to a school district, charter school, or career technical education district to use to provide career training and workforce services to students in grades nine through twelve. Statute requires the Department to make rules for awarding grants. The Department makes the required rules in this rulemaking.

The Department notes that it takes an asset-based approach in striving for equity for all students to achieve their full potential. Within this framework, the Department recognizes that students who are typically defined as “at risk” (See A.R.S. § 15-1283) are more accurately described as “students with promise.”

Under Section 7 of Proposition 208, Executive Order 2021-02 does not apply to the Department or this rulemaking.

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 Department 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. A summary of the economic, small business, and consumer impact, if applicable:

This rulemaking is exempt from all rulemaking requirements in A.R.S. Title 41, Chapter 6 under Section 7 of Proposition 208. The exemption includes the requirement to provide an economic, small business, and consumer impact statement.

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

Not applicable

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

The Department posted the draft Notice of Exempt Rulemaking on its web site for 30 days and invited comments regarding three questions: How the proposed rules could be improved; whether anything had been omitted from the proposed rules; and other questions or comments regarding the proposed rules. Sixteen people submitted comments.

COMMENT	ANALYSIS	RESPONSE
How are the funds from Prop 208 being processed?	The Department does not process funds from Prop 208. The comment is outside the scope of the rulemaking.	No change
The initiative violates the state legislature’s power to appropriate tax revenue. Doesn’t the initiative authorize taxation outside Constitutional procedures?	A.R.S. § 15-1283(B) requires the Department to make rules regarding a career training and workforce program. The Department has done this. The comment is outside the scope of the rulemaking.	No change
The term “at-risk” should be expanded to include high school students who are not in ninth grade. Students may enter the at-risk category after ninth grade.	The Department agrees with the comment. The definition of “at-risk” students in R7-7-101(2) is not limited to ninth grade.	No change
The State of Arizona is in crisis. Its education system is unsustainable. Teachers are	The Department appreciates the comment but it is outside the scope of the rulemaking.	No change

quitting with no replacements in sight. Until school funding improves, we will continue to see unprecedented teacher attrition, a lagging economy, and substandard workforce.		
The grant could be higher. Thank you for the raise.	The proposed rules do not specify a grant limit.	No change
Keep the high expectation. How can you possibly believe teachers are going to continue to put up with the lack of support from the Arizona state lawmakers? The lawmakers make a mockery of the expectation and put everything on the educators.	The Department appreciates the comment and will keep expectations high. However, the comment is outside the scope of the rulemaking.	No change
Make sure parents are aware of the programs. This may push more schools to do it.	The Department will take steps to ensure there is awareness of the opportunities available from the program.	No change
We need innovative ideas rather than lackluster programs. Resources and technology are important but this bill does not address it. It's a waste of money.	The Department appreciates the comment but it is outside the scope of the rulemaking.	No change
Give us what we voted for.	This rulemaking was part of what was voted for.	No change
I see no areas for improvement.	The Department appreciates the comment.	No change
When school districts apply for the grant, they need to include ways the program will address	The Department believes a school district that wishes to maximize its chance of being	No change

<p>student transportation disparities for those who want to attend, allow the programs to be year around, and itemize resources/supplies students will receive when participating.</p> <p>How will career counselors and CTE teachers be involved at the district and school level when writing and executing the grants?</p>	<p>awarded a grant will involve teachers at every step of the grant application, evaluation, and implementation process.</p>	
<p>Need a more detailed audit system. What are the productivity/performance standards? Too much money is already wasted on programs that do nothing. How does this differ from a school's current CTE program? Need more specific rules on how money is spent.</p>	<p>The Department appreciates the need for detail and standards. However, it is not possible to provide that specificity in rule. That will occur in the grant agreement between the Department and school district.</p>	<p>No change</p>
<p>Do not raise my property taxes to give more money to public schools. I do not support more money being thrown at the system. I especially do not support taking more money from me to go to schools that my family does not use.</p>	<p>The comment is outside the scope of the rulemaking.</p>	<p>No change</p>
<p>The Department should review or rely on studies in the evaluation of or justification for any rule in a future rulemaking. It would be nice for</p>	<p>This kind of information will be used when evaluating grant applications and when reporting on the program.</p>	<p>No change</p>

<p>lawmakers/individuals who support this initiative to see how similar programs and grants have positively impacted education.</p> <p>Additional detail is needed regarding how often monitoring will happen, how much aid is available for each school, and that aid will be provided as a lump sum or through the school year.</p>	<p>This information is provided in the grant agreement between the Department and school district.</p>	<p>No change</p>
<p>Provide specific examples of programs that would provide students with meaningful work skills or a career. It is so sad to see programs that encourage students to stay in school have been eliminated.</p>	<p>School districts will provide the specific examples when they apply for a grant. Examples of programs are outside the scope of the rulemaking.</p>	<p>No change</p>
<p>The concept of “academic acceleration,” as described in Prop 208 is missing.</p>	<p>The concept is present in R7-7-102(A)(2)(a), which refers to allowable uses of Fund monies specified in A.R.S. § 15-1283. Academic acceleration is referenced at A.R.S. § 15-1283(B)(3)(d).</p>	<p>No change</p>

12. Other matters prescribed by statute 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:

The rulemaking does not require a permit.

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

No federal law is applicable to the subject of this rulemaking.

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 as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

No rule in this rulemaking was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 7. RESERVED CAREER TRAINING AND WORKFORCE PROGRAM

ARTICLE 1. GRANTS FROM THE CAREER TRAINING AND WORKFORCE FUND

Section

R7-7-101. Definitions

R7-7-102. Application Procedures and Requirements

R7-7-103. Procedures for Evaluating Grant Applications

R7-7-104. Establishing the Grant Agreement; Making the Grant Award

R7-7-105. Monitoring Grants

R7-7-106. Procedures and Requirements to Renew a Grant

R7-7-107. Closing out a Grant

R7-7-108. Support Procedures

R7-7-109. Protecting Fund Monies

ARTICLE 1. GRANTS FROM THE CAREER TRAINING AND WORKFORCE FUND

R7-7-101. Definitions

In this Article:

1. “Applicant” means:
 - a. The individual authorized by the governing board of a school district, charter school, or career technical education district to submit a competitive-grant application to the Department; or
 - b. The school district, charter school, or career technical education district whose governing board authorized submission of a competitive-grant application to the Department.
2. “At-risk student” means a student who encounters systemic barriers that may impede access to quality and equitable education and career-readiness and result in disproportionately high discipline, suspension, expulsion, dropout, or absenteeism rates. Systemic barriers include experiencing homelessness, being placed in foster care, having a disability, being incarcerated, living in an underserved, under-resourced, marginalized, or rural community, or acquiring English proficiency.
3. “Career technical education district” has the meaning specified at A.R.S. § 15-391.
4. “Charter school” has the meaning specified at A.R.S. § 15-101.
5. “Day” means a calendar day unless otherwise specified.
6. “Department” means the Arizona Department of Education created under A.R.S. § 15-231(A).
7. “Fund” means the career training and workforce fund established under A.R.S. § 15-1282.
8. “Governing board” has the meaning specified at A.R.S. § 15-101.
9. “Grant agreement” means a contract between the Department and the governing board of a school district, charter school, or career technical education district that specifies the scope of work, budget, and terms and conditions for receipt of a grant of monies from the Fund.
10. “Grantee” means a school district, charter school, or career technical education district to which the Department has awarded a grant of monies from the Fund.
11. “School district” has the meaning specified at A.R.S. § 15-101.
12. “Support staff,” as used in A.R.S. § 15-1283, means the same as “classroom support personnel,” as defined at A.R.S. § 15-1281.
13. “Teacher,” as used in A.R.S. § 15-1283, has the meaning specified at A.R.S. § 15-1281.

R7-7-102. Application Procedures and Requirements

A. Department requirements.

1. The Department shall award grants from the Fund using a competitive process that ensures statewide distribution and effective and efficient use of Fund monies.
2. At least 60 days before a grant application is due, the Department shall post a grant application form and instructions on its web site. The Department shall ensure the instructions specify:
 - a. Whether any allowable uses of Fund monies, including those specified at A.R.S. § 15-1283, will receive priority consideration;
 - b. The date and time by which a grant application is to be submitted;
 - c. The amount of Fund monies available to be awarded; and
 - d. The factors to be considered and weight to be given to each factor when assessing a grant application for technical and programmatic quality and competency.
3. At least 30 days before a grant application is due, the Department shall conduct a question-and-answer session about the grant process with potential applicants. The Department shall ensure potential applicants are able to attend the session remotely.

B. Applicant requirements.

1. An applicant shall complete and electronically submit to the Department the grant application form referenced in subsection (A)(2).
2. The applicant shall attach the following to the submitted grant application form:
 - a. Evidence the governing board authorized the applicant to submit the grant application;
 - b. Evidence the governing board approved the submitted grant application before submission;
 - c. Evidence the school district, charter school, or career technical education district is able to provide grade nine teachers and support staff with real-time, accessibly formatted data regarding student grades, attendance, and behavior;
 - d. An affirmation from the governing board that grade nine teachers and support staff will be permitted to meet during the school day to review data and develop strategies to intervene with at-risk students;
 - e. An affirmation from the governing board that Fund monies received will be used only to:
 - i. Establish or expand programs, opportunities, and strategies allowed under A.R.S. § 15-1283; and
 - ii. Replace, if necessary, monies from the loss or expiration of time-limited grants and federal monies that were being used before November 30, 2020, for programs, opportunities, and strategies allowed under A.R.S. § 15-1283; and

- f. A list of other sources of funding the school district, charter school, or career technical education district intends to use to supplement Fund monies and the amount available from each source.

R7-7-103. Procedures for Evaluating Grant Applications

A. Initial screening. Within 30 days after grant applications are due, the Department shall review each grant application to determine whether it contains all elements specified under R7-7-102(B). If the Department determines a grant application is incomplete, the Department shall contact the applicant and provide 15 days for the applicant to complete the grant application. If the applicant fails to complete the grant application within the time provided, the Department shall consider the grant application withdrawn.

B. Program review. The Department shall subject all complete grant applications to an assessment for technical and programmatic quality and competency. To ensure fairness, the Department shall:

1. Redact from a grant application all information that might identify the school district, charter school, or career technical education district submitting the grant application;
2. Establish one or more panels of individuals to assess the complete grant applications using the factors and weights identified under R7-7-102(A)(2). The Department shall ensure the individuals are knowledgeable of or have skills related to:
 - a. The purpose of the career training and workforce program;
 - b. At-risk ninth-grade students;
 - c. Teaching, counseling, and supporting high school students to achieve their career and work goals;
 - d. Establishing and measuring educational objectives; and
 - e. Educational attainment and evaluation.
3. Require the members of each panel to:
 - a. Attend training provided by the Department regarding proper procedures and standards for conducting the program review of completed grant applications,
 - b. Assess and score each grant application independently, and
 - c. Convene to review the independent assessments and reach a consensus regarding the merit of each grant application.

C. Financial review. The Department shall subject all complete grant applications to:

1. An evaluation of the business management capability of the applicant including, if necessary, a site visit by the Department;

2. A cost analysis involving review of each line item to ensure each cost is allowable, allocable, and reasonable and the overall proposed budget to ensure consistency with program requirements; and
3. An assessment of other sources of funding the school district, charter school, or career technical education district intends to use to supplement Fund monies.

R7-7-104. Establishing the Grant Agreement; Making the Grant Award

- A.** The Department shall make the decision whether to award a grant to an applicant and if so, how much to award and for what term. The Department shall base its decision on:
 1. The results of the program and financial reviews of each grant application, and
 2. Geographic considerations to ensure statewide distribution of Fund monies.
- B.** Before making a grant award, the Department shall review the grant agreement with the applicant to ensure all aspects of the award, including scope of work, budget, and terms and conditions are understood and accepted.
- C.** The Department shall send a notice of award to each successful applicant. The Department shall attach the grant agreement to the notice of award. When the governing board signs and returns the grant agreement to the Department, Fund monies will become available to the grantee.
- D.** The Department shall send a letter to each unsuccessful applicant with information regarding why the grant application was not successful. There is no appeal of the Department's decision. However, the Department shall provide annual training regarding how to prepare a successful application.

R7-7-105. Monitoring Grants

The Department shall conduct all post-award monitoring specified in the grant agreement. This includes:

1. Tracking receipt of required financial and progress reports;
2. Reviewing reports to identify performance or financial deficiencies;
3. Reviewing results of required periodic audits;
4. Negotiating a correction plan for the grantee to address issues identified in reports or audits, if any;
5. Maintaining records of all communications with the grantee, whether by written or electronic correspondence, telephone, or on-site visits;
6. Conducting site visits when necessary to investigate problems or deficiencies identified in reports;
7. Providing training to enhance performance; and
8. Negotiating amendments to the grant agreement, if needed.

R7-7-106. Procedures and Requirements to Renew a Grant

- A.** Regardless of the term of a grant specified in the grant agreement, the grantee shall apply each year during the term to renew the grant. Successful grant renewal provides an additional year of Fund monies for the grantee to implement the career training and workforce program.
- B.** To apply for renewal of a grant, the grantee shall complete and electronically submit to the Department the application form referenced in R7-7-102(A)(2). The grantee shall attach the following to the application form:
1. Evidence the governing board authorized the grantee to submit the renewal application;
 2. Evidence the governing board approved the submitted renewal application before submission;
and
 3. A list of other sources of funding the school district, charter school, or career technical education district intends to use to supplement Fund monies and the amount available from each source.
- C.** The Department shall base its decision to renew a grant and award Fund monies for another year on the following:
1. The amount of Fund monies available for renewal of grants;
 2. Whether the grantee is compliant with all provisions of the grant agreement;
 3. Whether the grantee has obtained funding from other sources to supplement the career training and workforce program and support the program after Fund monies are no longer available;
 4. Whether the grantee is making progress towards achieving the objectives of the career training and workforce program; and
 5. Whether the Department and grantee successfully negotiate provisions of the grant agreement for another year.
- D.** As provided under A.R.S. § 15-1283(A)(1), the Department shall award Fund monies to a school district, charter school, or career technical education district for a maximum of five years for a particular career training and workforce program. When the term of a particular career training and workforce program expires, the school district, charter school, or career technical education district may apply anew under the competitive procedures specified in R7-7-102.

R7-7-107. Closing out a Grant

The Department shall review expiring grants to determine whether:

1. All provisions of the grant agreement, including completion reports, have been submitted;
2. Program objectives have been met;
3. Unresolved business management issues exist;

4. Budget adjustments are needed;
5. Property purchased with Fund monies has been properly disposed; and
6. The grant file is complete.

R7-7-108. Support Procedures

To maximize the success of the career training and workforce program, the Department shall provide the following support to applicants and grantees:

1. Provide annual training regarding how to prepare a successful competitive grant application;
2. Provide annual availability to answer questions about the grant process;
3. Provide training to members of review panels regarding proper procedures and standards for conducting the program review of completed grant applications;
4. Conduct site visits as deemed necessary;
5. Review program and financial reports submitted by a grantee;
6. Assist a grantee to develop and implement a correction plan, if necessary; and
7. Provide opportunities for grantees to share and learn from each other.

R7-7-109. Protecting Fund Monies

- A.** Any individual who has reason to believe that Fund monies are not being used as intended, that fraud, waste, or abuse is occurring, or that false reports are being submitted may report the belief to the Department.
- B.** To make a report under subsection (A), an individual shall:
 1. Submit the report to the Department using written or electronic correspondence or telephone; and
 2. Include in the report sufficient information to enable the Department to ensure the alleged behavior is properly investigated.
- C.** The Department shall protect the identity of an individual who makes a report under subsection (B).
- D.** If the Department determines that Fund monies are not being used as intended, that fraud, waste, or abuse is occurring, or that false reports are being submitted the Department shall take action allowed by law.