

Arizona Administrative CODE

Supplement 18-2

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, through June 30, 2018.



TITLE 13. PUBLIC SAFETY

CHAPTER 14. CONSTABLE ETHICS, STANDARDS AND TRAINING BOARD

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Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

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This Chapter in supplement 18-2 is new.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 13. PUBLIC SAFETY

CHAPTER 14. CONSTABLE ETHICS, STANDARDS AND TRAINING BOARD

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Constable Ethics, Standards and Training Board

ARTICLE 1. GENERAL PROVISIONS**R13-14-101. Definitions**

In this Chapter, unless the context requires otherwise:

“Board” means the Constable Ethics, Standards, and Training Board established under A.R.S. § 22-136(A).

“Complainant” means a person, other than the Board, that files a complaint regarding a constable.

“Constable” means an individual elected under A.R.S. § 22-102 and any deputy constable appointed, employed, or authorized by the county board of supervisors.

“Party” has the meaning specified at A.R.S. § 41-1001.

“Person” has the meaning specified at A.R.S. § 1-215.

“Respondent” means a constable against whom a complaint is filed.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-102. Conduct of the Board

- A. Board members shall elect the officers specified under A.R.S. § 22-136(B) annually. An individual elected as an officer may serve successive terms without limit.
- B. The Board shall comply with A.R.S. Title 38, Chapter 3, Article 3.1 regarding open meetings. A person that wishes to have an item placed on the agenda of the Board for discussion and action shall submit the item in writing to the Board at least 48 hours before the Board meeting.
- C. A Board member present at a Board meeting in real time by telephone or other electronic means is present for the purpose of determining a quorum.
- D. Board members shall comply with A.R.S. Title 38, Chapter 3, Article 8 regarding conflicts of interest.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-103. Constable Code of Conduct

- A. A constable shall:
 1. Comply with all federal, state, and local law;
 2. Act in a manner that promotes public confidence in the constable’s office;
 3. Be honest and conscientious in all professional and personal interactions;
 4. Avoid a conflict of interest, including the appearance of a conflict of interest, in the performance of constable duties;
 5. Perform constable duties without:
 - a. Bias or prejudice; and
 - b. Regard for kinship, social or economic status, political interests, public opinion, or fear of criticism or reprisal;
 6. Maintain accurate public information regarding the performance of the constable’s duties including the daily activity log required under A.R.S. § 11-445;
 7. Provide complete and accurate answers to questions regarding court and other procedures available to an individual who comes in contact with the constable’s office;
 8. Act at all times in a manner appropriate for an elected public official;
 9. Be courteous, patient, and respectful toward all individuals who come in contact with the constable’s office;
 10. Inform an individual who asks for legal advice that as a matter of law, a constable is not allowed to give legal

advice while performing the constable’s official duties; and

11. Comply with all training requirements relating to being a constable.

B. A constable shall not:

1. Use or attempt to use the constable position to obtain a privilege or exemption for the constable or any other person;
2. Use public funds, property, or other resources for a private or personal purpose;
3. Solicit or accept a gift or favor from any person known to do business with an Arizona justice court;
4. Solicit or accept payment other than mandated compensation for providing assistance that is part of an official duty;
5. Use words or engage in other conduct that a reasonable person would believe reflects bias or prejudice based on race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status;
6. Disclose confidential information received in the course of performing an official duty unless disclosure is required by law; or
7. Use information received in the course of performing an official duty for personal gain or advantage.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

ARTICLE 2. COMPLAINTS; HEARINGS; DISCIPLINARY ACTION**R13-14-201. Filing a Complaint; Jurisdiction**

- A. A person may submit to the Board a written complaint regarding a constable using the complaint form on the Board’s website. A written complaint may be submitted in person at the Board office or by U.S. Postal Service or e-mail. The complainant shall include in the complaint facts that allege the constable failed to comply fully with A.R.S. § 22-131 or R13-14-103 within the last four years. The complainant may attach to the complaint form any documents or other evidence relevant to the complaint.
- B. At the monthly Board meeting following receipt of a written complaint under subsection (A), the Board shall review the complaint to determine whether the complaint is within the Board’s jurisdiction.
 1. The Board shall find a complaint is within the Board’s jurisdiction if the complaint meets the standards in subsection (A). If the Board determines the complaint is within the Board’s jurisdiction, the Board shall process the complaint as described in R13-14-202.
 2. The Board shall find a complaint is not within the Board’s jurisdiction if the complaint does not meet the standards in subsection (A). Following the meeting at which the Board determines the complaint is not within the Board’s jurisdiction, the Board shall provide notice to the person that submitted the complaint and the constable who was the subject of the complaint.
- C. If the Board obtains information the Board believes may indicate a constable failed to comply fully with A.R.S. § 22-131 or R13-14-103 within the last four years, the Board may initiate a complaint against the constable. If the Board initiates a complaint against a constable, the Board shall process the complaint as described in R13-14-202.

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Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-202. Complaint Processing

- A.** Following the meeting at which the Board determines a complaint is within the Board's jurisdiction, as described under R13-14-201, the Board shall send notice to the respondent and:
1. A copy of the complaint received, including any documents or other evidence attached to the complaint form; and
 2. A request that the respondent submit a written response to the allegations in the complaint within 45 days after the date on the notice.
- B.** After receiving the written response or 45 days after providing notice under subsection (A), the Board shall review the respondent's written response and conduct any investigation the Board determines is necessary.
- C.** The Board shall schedule the complaint for hearing at the Board's second meeting following the meeting referenced in subsection (A).
- D.** Before allowing review of the complaint investigative file, the Board may redact confidential information.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-203. Hearing Procedures

- A.** Except as modified by this Chapter, the Board shall conduct a hearing regarding a complaint according to the procedures at A.R.S. Title 41, Chapter 6, Article 10 and the rules of the Office of Administrative Hearings at 2 A.A.C. 19.
- B.** If the Board finds after a hearing that a complainant is a vexatious litigant, as defined at A.R.S. § 12-3201, the Board may take the same action with regard to the complainant as the Superior Court would be allowed to take under A.R.S. § 12-3201.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-204. Disciplinary Action

If the Board determines disciplinary action under A.R.S. § 22-137(A)(5) is warranted, the Board shall consider factors including, but not limited to, the following when determining the appropriate discipline:

1. Prior disciplinary offenses;
2. Dishonest or self-serving motive;
3. Pattern and frequency of misconduct;
4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Board;
5. Submission of false evidence, false statements, or other deceptive practices during the investigative or disciplinary process;
6. Refusal to acknowledge wrongful nature of conduct; and
7. Harm caused to a member of the public.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-205. Review or Rehearing of Decision

- A.** A party aggrieved by a Board order or decision may:
1. Seek judicial review of the order or decision under A.R.S. § 12-904; or

2. Except as provided in subsection (G), file a written motion for review or rehearing with the Board not later than 30 days after service of the order or decision. For purposes of this subsection, service is complete on personal service or five days after the date the Board order or decision was mailed to the party's last known address.
- B.** A motion for rehearing or review may be amended at any time before it is ruled on by the Board. A party may file a response within 15 days after service of the motion or amended motion by any other party. The Board may require written briefs regarding the issues raised in the motion and may provide for oral argument.
- C.** The Board may grant rehearing or review of a Board order or decision for any of the following causes materially affecting the moving party's rights:
1. An irregularity in the administrative proceedings of the Board or the prevailing party or any order or abuse of discretion that caused the moving party to be deprived of a fair hearing;
 2. Misconduct of the Board or the prevailing party;
 3. An accident or surprise that could not be prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence be discovered and produced at the original hearing;
 5. An error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the case; or
 6. The order or decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify a Board order or decision or grant a rehearing or review to all or any of the parties, on all or part of the issues, for any of the reasons specified in subsection (C). An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only the matters specified.
- E.** Not later than 30 days after a Board order or decision is rendered, the Board may on its own initiative order a rehearing or review of its order or decision for any reason specified in subsection (C). After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion.
- F.** When a motion for rehearing or review is based on affidavits, the party shall serve the affidavits with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board for good cause or by written agreement of all parties may extend the period for service of opposing affidavits to a total of 20 days. Reply affidavits are permitted.
- G.** If the Board finds that the immediate effectiveness of a Board order or decision is necessary to preserve public peace, health, or safety and that a rehearing or review of the Board order or decision is impracticable, unnecessary, or contrary to the public interest, the Board order or decision may be issued as a final order or decision without an opportunity for a rehearing or review. If a Board order or decision is issued as a final order or decision without an opportunity for rehearing or review, any application for judicial review of the order or decision shall be made within the time permitted for final orders or decisions.
- H.** A complainant:
1. Is not a party to:
 - a. A Board administrative action, decision, or proceeding; or
 - b. A court proceeding for judicial review of a Board decision under A.R.S. §§ 12-901 through 12-914; and

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- 2. Is not entitled to seek rehearing or review of a Board action or decision under this Section.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

ARTICLE 3. TRAINING AND EQUIPMENT PROGRAM GRANTS

R13-14-301. Request for Grant Applications

- A. As required under A.R.S. § 22-138, the Board makes grants for constable training and support and equipment.
- B. The Board shall issue requests for grant applications that meet the standards required under A.R.S. § 41-2702.
- C. The Board shall post the requests for grant applications on the Board’s website at least six weeks before grant applications are due. The Board shall send written notice of the online availability of the requests for grant applications to all constables

bles and any person that has submitted a written request to receive the notice.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).

R13-14-302. Evaluation of Grant Applications

- A. Members of the Board shall review and evaluate each grant application in a manner consistent with A.R.S. § 41-2702. The Board shall base the Board’s decision regarding an application only on the criteria specified in the request for grant applications.
- B. The Board shall vote on each application and award grants at a public meeting.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 1518, effective June 30, 2018 (Supp. 18-2).