

**AGENCY CERTIFICATE  
NOTICE OF PROPOSED EXPEDITED RULEMAKING**

**1. Agency name:**

State Board of Investment

**2. Chapter # and heading:**

CHAPTER 13. STATE BOARD OF INVESTMENT

**3. Code Citation for the Chapter:**

2 A.A.C. CHAPTER 13

**4. Article, Part, or Section Affected (as applicable)**

R2-13-204

**Rulemaking Action**

Amend

**5. The rules contained in this rulemaking package are true and correct as proposed.**

  
**Signature of agency chief executive officer in ink**

Kimberly Yee

**Typed name of signer\***

Arizona State Treasurer

**Title of signer**



**Type date here**

**Date signed**

\* Please note, the signature of signer and typed name must match.

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**

**TITLE 2. ADMINISTRATION**

**CHAPTER 13. STATE BOARD OF INVESTMENT**

**PREAMBLE**

- 1. Permission to proceed with this proposed expedited rulemaking was granted under A.R.S. § 41-1039 by the governor on:**

This rulemaking is not subject to the rulemaking moratorium under A.R.S. § 41-1039, which only applies to rulemaking by "state agencies." The State Board of Investment (the "BOI"), at the direction of the Arizona State Treasurer (the "Treasurer"), is responsible for adopting rules to prevent excess contributions under A.R.S. § 15-1875(L). The Treasurer is the chairperson of the BOI. A.R.S. § 35-311(A). Thus, the BOI is "headed by a single elected state official" and therefore excepted from the definition of "state agency" under A.R.S. § 41-1039(E)(2)(a).

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|--|--------------------------|
| <b>2. Article, Part, or Section Affected (as applicable)</b> | <b>Rulemaking Action</b> |
| R2-13-204  | Amend                    |

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

A.R.S. §§ 15-1872(B), 15-1875(L), 35-311(A), (B)(5)

- 4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the proposed expedited rule:**

n/a

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

Name: Jeffrey Ong

Title: AZ529 Plan Administrator

Division: n/a

Address: 1700 W. Washington, Suite #102, Phoenix, AZ 85007

Telephone: 602-542-7880

Fax: n/a

Email: [jeffreyo@aztreasury.gov](mailto:jeffreyo@aztreasury.gov)

Website: <https://www.aztreasury.gov/board-of-investment>

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

After evaluating the rules and receiving feedback from AZ529 Plan stakeholders, including plan providers like Fidelity Investments and Goldman Sachs, the Board intends to implement minor updates to R2-13-204. Specifically,

R2-13-204(A)(1)-(2) currently provides that “[f]or each designated beneficiary, the balance in all qualified tuition programs ... shall not exceed the lesser of: The product (rounded down to the nearest multiple of \$1000) of 7 and the average one year’s undergraduate tuition, fees, room and board at the ten independent four year eligible educational institutions as measured and last published by the College Board’s Independent College [CSB] 500 Index that have the largest total direct charges ... or The cost in current dollars of qualified higher education expenses the account owner reasonably anticipates the designated beneficiary will incur.”

Since this rule’s adoption, the methodology for calculating the amount using the College Board’s Independent College 500 Index is now out of date. Thus, the Board intends to remove the rule’s reference to the College Board’s Independent College 500 Index and amend R2-13-204 to reflect the current methodology for determining account balance limitations.

Additionally, R2-13-204 currently requires the Board to annually review the maximum balance amounts set forth in subsection (A). To support consistency with other statutes and current processes in other states, the Board would like to eliminate this requirement or reduce the frequency in which the Board must conduct this review.

- 7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**

n/a

- 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:**

n/a

- 9. A statement that the agency is exempt from the requirements under A.R.S. § 41-1055(G) to obtain and file a preliminary summary of the economic, small business, and consumer impact under A.R.S. § 41-1055(D)(2):**

This rulemaking is exempt from the requirements to obtain and file an economic, small business, and consumer impact under A.R.S. § 41-1055(D)(2).

- 10. Where, when, and how a person may provide written comments on the proposed expedited rule:**

A person may submit written comments no later than the close of record to the person listed under Item #5.

Close of Record: August 8, 2026

- 11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- 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 proposed AZ529 Rules do 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:**

I.R.C. § 529 applies to the subject of the AZ529 Rules. The AZ529 Rules are not more stringent than federal law.

- c. Whether a person submitted an analysis to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states under A.R.S. § 41-1055(I). If yes, include the analysis with the rulemaking package.**

n/a

- 12. List all incorporated by reference material as specified in A.R.S. § 41-1028 and include a citation where the material is located:**

A.R.S. § 15-1875(E), (F) -- R2-13-204

I.R.C. § 529 -- R2-13-204(A)

- 13. The full text of the rules follows:**

Rule text begins on the next page.

**TITLE 2. ADMINISTRATION**

**CHAPTER 13. STATE BOARD OF INVESTMENT**

**ARTICLE 2. AZ529, ARIZONA'S EDUCATION SAVINGS PLAN**

**R2-13-204. Account Balance Limitations**

- A. For each designated beneficiary, the balance in all qualified tuition programs, as defined in § 529 of the Code, shall not exceed the lesser of:
1. The product (rounded down to the nearest multiple of \$1000) of 7 and the average one year's undergraduate tuition, fees, room and board at the ten independent four year eligible educational institutions as ~~determined by the board measured and last published by the College Board's Independent College 500 Index~~ that have the largest total direct charges. For purposes of this subsection, "total direct charges" means the charges determined for each eligible educational institution by multiplying the eligible educational institution's undergraduate enrollment by the reported tuition, fees, room and board for an on-campus student at the eligible educational institution; or
  2. The cost in current dollars of qualified higher education expenses the account owner reasonably anticipates the designated beneficiary will incur.
- B. No person shall make any contribution to a qualified tuition program during an account year that would cause the sum of the account balances in all qualified tuition programs of the designated beneficiary as of the first day of the account year plus contributions made during the account year less withdrawals during the account year to or from any such account to exceed the maximum allowable balance set forth in subsection (A). Any excess contributions with respect to a designated beneficiary shall be promptly withdrawn as a non-qualified withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(E) or A.R.S. § 15-1875(F).
- C. No financial institution shall accept for deposit in any account a contribution if the contribution would cause the sum of the values (as of the beginning of an account year) of all qualified tuition programs of the designated beneficiary that are managed by the financial institution and contributions to such accounts less withdrawals from such accounts during the account year to exceed the maximum allowable balance set forth in subsection (A).
- D. ~~Biennially~~ Each year, the Board shall review the amounts set forth in subsection (A).
- E. Persons making a contribution to an account shall certify that as to the account's designated beneficiary, and to the best of the contributor's knowledge, the contribution shall not cause the balances in all qualified tuition programs to exceed the account balance limitations described in subsection (A).
- F. If the Treasurer determines that contributions have been made to program accounts in violation of subsection (B) or (C), the Treasurer shall notify the Board, the designated beneficiary and the account owners of all accounts of such designated beneficiary. The account owners shall have 60 days after receipt of such notice to reduce the balances of the qualified tuition programs through dis-

tributions and/or changes in beneficiaries to a level less than or equal to the maximum account balance described in subsection (A). If the balances are not appropriately reduced, the Treasurer will disqualify such accounts in reverse order of their date of opening until the sum of the balances in the accounts does not exceed the maximum allowable balance set forth in subsection (A). This subsection shall not apply to any contribution made at a time when such contributions did not cause the account balance limits to be exceeded.

**AGENCY RECEIPT**

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**

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**3. Code Citation for the Chapter:**

2 A.A.C. CHAPTER 13

**4. Any Subchapter, if applicable; Article; Part, if applicable; and Section involved in the rulemaking, listed in alphabetical and numerical order:**

Article, Part, or Section Affected (as applicable)

Rulemaking Action

**R2-13-204**

**Amend**