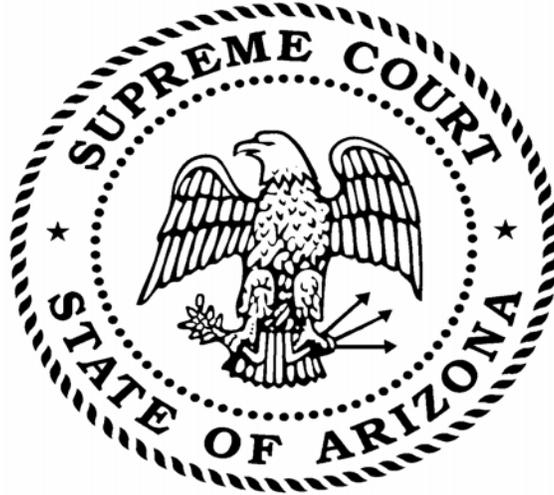


ARIZONA SUPREME COURT
Administrative Office of the Courts
Certification and Licensing Division



LEGAL DOCUMENT PREPARER
INDIVIDUAL CERTIFICATION
CANDIDATE STUDY GUIDE

Legal Document Preparer Program
1501 West Washington, Suite 104
Phoenix, AZ 85007-3231

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1. INTRODUCTION

AUTHORITY Arizona Supreme Court Rule 31 and Arizona Code of Judicial Administration (ACJA) § 7-201 and § 7-208 establish the authority for administration of the Legal Document Preparer Program by the Arizona Supreme Court. The Court administers the program through the Certification and Licensing Division of the Administrative Office of the Courts. Administrative Order Number 2005-24, signed by Chief Justice Charles Jones on April 7, 2005, adopted amendment of ACJA § 7-208 to provide for the content and administration of the examination.

DEFINITION ACJA § 7-208 defines legal document preparers as those individuals who prepare or provide legal documents without the supervision of an attorney, for an entity or individual who is engaging in self representation in any legal matter.

REQUIREMENT FOR EXAMINATION Beginning July 1, 2006, all candidates for certification as a legal document preparer shall successfully pass a written examination. The examination requirements do not apply to entities applying for certification as a business entity.

ACJA § 7-201 and § 7-208 do not provide for any waiver of the examination. All potential applicants for certification must take and pass the examination in order to be eligible to apply for certification.

PURPOSE OF THIS HANDBOOK The purpose of this handbook is to provide candidates with detailed information about the examination for certification as a legal document preparer. The handbook includes information about knowledge, skills, and abilities assessed by the examination, candidate responsibilities on the day of the examination, and notification of examination results.

2. APPLICATION POLICIES AND PROCEDURES

ELIGIBILITY All potential candidates for certification must successfully complete the examination, submit a completed application for standard certification, including the application fee, and possess the education or experience as outlined in ACJA § 7-208.

CONFIRMATION OF ELIGIBILITY Potential candidates applying for certification who have not previously taken the examination must register for an examination session as prescribed by instructions posted on the Program website at www.supreme.state.az.us/cld/ldp.htm.

Available seats for the examination are filled on a first come first-come, first-serve basis. Examination staff reserves the right to limit the number of seats available at each administration. All candidates who fail to appear for a scheduled examination will be assessed a fee as prescribed by ACJA § 7-208 (K).

FEES The fee for participating in the examination is \$50.00. If it becomes necessary for a candidate to retake the examination, the fee to retake the examination is \$50.00. If a candidate registers for the exam and fails to appear as scheduled, the candidate will be assessed a \$50.00 re-registration fee.

SPECIAL ACCOMMODATIONS Requests for special accommodations in accordance with the Americans with Disabilities Act of 1990 must be submitted to the Certification and Licensing Division program with substantiating documentation.

Requests must include a description of the nature of the disability and limitations related to the examination, the type of accommodation(s) requested and verification from a qualified professional. The qualified professional must have special expertise to evaluate the existence of the disability and proposed accommodations needed for the specific disability. Requests are reviewed and granted on an individual basis.

3. OVERVIEW OF THE EXAMINATION

TIME LIMITS Candidates are allowed a total of three (3) hours to complete the examination. Candidates may wish to complete the multiple-choice questions in any order; however, candidates are responsible for managing their own time.

FORMAT The examination consists of 100 multiple-choice questions worth one point each. There is one correct answer for each question. There is no penalty for guessing; therefore, candidates should answer all of the questions.

The multiple-choice questions cover subject matter areas related to the preparation of legal documents (see Content Specifications, Section 4). The questions are designed to demonstrate candidates possess the basic knowledge, skills and abilities to provide legal document preparation services.

PASSING SCORE The passing score is the score that a candidate must achieve in order to pass the examination and qualify to apply for individual certification as a legal document preparer in Arizona.

The passing score for the examination is a raw score of 72 correct responses out of the possible 100. Scoring is not based on a candidate achieving a passing score in each of the content specification areas, but rather is reflective of the overall score on the examination.

4. CONTENT SPECIFICATIONS

BASIS OF CONTENT SPECIFICATIONS The content for the examination was developed through an occupational analysis survey of legal document preparers conducted during October of 2004. The survey questionnaire was based on information obtained from interviews and focus groups involving active certificate holders.

The survey questionnaire was made available to all individual initial certificate holders. Certificate holders were asked to provide demographic information about themselves and the services they provide, indicate how frequently they performed various tasks, and how important certain knowledge/abilities were in performing these tasks.

The resulting data was analyzed and evaluated by focus groups comprised of active certificate holders to identify the tasks that are performed by entry-level document preparers and the knowledge/abilities required to perform these tasks. Only those tasks and knowledge/abilities that were determined to be important to entry-level practice were included in the content specifications.

CONTENT AREAS There are seven content areas outlined in the content specifications:

- I. Legal Terminology (7%) - Understand the meaning and applicability of general legal terms such as terms used in estate planning, probate, domestic relations, bankruptcy, business formation, tax matters, immigration and naturalization, and civil matters, etc.
- II. Client Communication (9%) – Provide general factual information regarding legal rights, procedures or options.
- III. Administrative Responsibilities (7%) – Apply the administrative orders, ACJA § 7-208 and Rules of Court pertaining to professional responsibilities of certificate holders.
- IV. Data Gathering (10%) – Obtain required information necessary and relevant to prepare legal documents.
- V. Document Preparation (20%) – Complete, file, submit, or record legal documents according to codes, laws, rules, court orders, and policies.
- VI. Ethical Issues (8%) – Resolve ethical dilemmas according to ACJA § 7-208, laws, rules, or court orders.
- VII. Professional Responsibilities (39%) – Comply with ACJA § 7-208, laws, rules, or court orders to maintain professional conduct and protection of the public.

The above specified percentages of content area questions will be randomly ordered on the examination. For example, questions on legal terminology will not be contained in one section or placed in consecutive order.

5. SAMPLE QUESTIONS

The following questions are representative of the types and format of the questions on the examination.

1. What is the meaning of the acronym LLC?
 - A. Limited License Corporation
 - B. Limited Liability Company
 - C. Licensed Liability Company
 - D. Legally Licensed Corporation

2. A consumer approaches an LDP requesting services with bankruptcy documents. The consumer has no familiarity with the bankruptcy process. What action should the LDP take in this case?
 - A. Accept financial documents; refer the consumer to an estate planning attorney for legal advice
 - B. Accept financial documents and information; suggest to the consumer which document best serves her needs
 - C. Provide the consumer with information about available bankruptcy options; have the consumer choose the documents to be prepared
 - D. Provide the consumer with information about bankruptcy; suggest to the consumer that she have interim documents prepared until she decides what she wants

3. What action, if any, should be taken by a designated principal who is no longer able or willing to serve in a business entity?
 - A. No action is necessary to fulfill the requirements of § 7-208
 - B. Designate another LDP as the new principal during renewal
 - C. Designate another LDP as the new principal within 20 days
 - D. Designate another LDP as the new principal within 30 days

4. What information should be obtained for a "Petition for Appointment of a Guardian of an Adult"?
 - A. Estimated value of proposed ward's property; type of guardianship requested
 - B. Estimated value of proposed ward's property; a report from the proposed ward's physician
 - C. Appraised value of proposed ward's property; type of guardianship requested
 - D. Appraised value of proposed ward's property; a report from the proposed ward's physician

5. A consumer asks an LDP for advice as to what position to take regarding child custody in his "Petition for Dissolution of Marriage." He recites his version of the facts and his involvement with the children. He wants joint legal and physical custody. His wife has consulted with an attorney and does not agree with the consumer. How should the LDP handle this situation?
 - A. By declining the assignment and referring the consumer to an attorney
 - B. By recommending the consumer spend as much time with his children as possible
 - C. By proceeding to evaluate the consumer's version of the facts and begin drafting the petition
 - D. By informing the consumer he has a good case and offering assistance with his case for court appearances

6. An LDP is preparing a will for her brother's mother-in-law. The mother-in-law's will does not provide for the brother's children. What action should the LDP take in this situation?
 - A. Refer the mother-in-law to another professional to assist with the preparation of the will
 - B. Prepare the will as requested and refrain from recommending what to do with the grandchildren
 - C. Explain the wording which would provide for the grandchildren without recommending what she should do
 - D. Suggest to the mother-in-law that she provide for the grandchildren and recommend language for the document

7. A consumer, for whom an LDP has prepared court documents, successfully collected \$10,000 in past child support. Can the LDP receive additional fees from the consumer and why?
 - A. Yes, as there may be other considerations in order to secure professional assignments
 - B. Yes, as there may be contingency fees that can be established prior to completion of the proceedings
 - C. No, because the commission was not established prior to completion of the proceedings
 - D. No, because there may be an appearance of impropriety with regard to fees not directly related to performance of professional services

ANSWERS: B, C, C, B, A, A, D

6. EXAMINATION POLICIES AND PROCEDURES

EXAMINATION SECURITY

Candidates cannot receive any unauthorized assistance during the examination, including but not limited to any of the following:

- Impersonating another person in order to taken the examination on that person's behalf;
- Communicating examination content to any person (during or after the examination) other than the LDP Program staff;
- Removing examination materials from the examination room for the purpose of selling, distributing, buying, receiving, or having unauthorized possession of any portion of the examination;
- Having in one's possession books, equipment, notes, written or printed materials, data, other than the examination materials distributed;
- Reproducing examination materials or providing notes of examination content to any persons other than the examination staff; and,
- Obstructing or subverting the administration of the examination.

Any candidate who violates examination security policies is subject to denial of certification and/or disciplinary action pursuant to ACJA § 7-201(E)(2)(c)(2).

ARRIVAL AT THE EXAMINATION

On the day of the examination, the candidate must arrive at the designated examination site no later than the established registration time.

TARDINESS

An examination will not be disrupted to accommodate late arrivals. If a candidate reports late, the candidate will not be permitted to take the examination and will be required to pay prescribed fees for later participation.

REGISTRATION

The candidate must report to the registration area and present photographic identification (e.g., state-issued driver's license, military-issued identification or government-issued passport). The candidate will not be permitted to take the examination if they have not pre-registered and/or if they do not have the required photographic identification.

At the time of the examination, all candidates will be required to sign an acknowledgement of the examination security policies and a non-disclosure agreement.

NO SHOW POLICY	If a candidate fail to show up for the examination, the candidate must re-register for the examination and pay the applicable fees.
MATERIALS TO BRING	Other than photographic identification, you will be provided with all material necessary to participate in the examination process.
PROHIBITED MATERIALS	<p>Candidates cannot bring communication devices, reference materials, photographic equipment or electronic devices into the examination room. The following items are examples of prohibited materials:</p> <ul style="list-style-type: none"> • Cellular phones and pagers • Candidate handbooks, technical reference books and dictionaries • Cameras and videographic recorders • Radios and tape recorders • Laptop computers • Programmable electronic organizers, personal digital assistants (PDAs) • Drinks and food
PERSONAL BELONGINGS	<p>Candidates may keep keys, wallets and purses on the floor near their seat during the examination. Larger items (e.g., backpacks, briefcases, duffel bags, handbags, tote bags) and outerwear (e. g. coats, hats) CANNOT be brought into the examination.</p> <p>Examination staff will not be responsible for monitoring candidates' personal items during the examination. If a candidate reports with prohibited materials or belongings the candidate will be asked to make alternative arrangements before the candidate starts the examination.</p> <p>If securing belongings results in the candidate being late for the examination, the candidate will not be permitted to take the examination and will need to reschedule and submit any applicable fees.</p>
CHECK-OUT PROCEDURE	All examination materials including test booklets, answer sheets, pencils and any notes taken during the examination must be returned to the examination staff. Failure to do so will void the candidate's examination.
DISRUPTIVE BEHAVIOR	<p>Candidates who engage in behavior that is disruptive to other candidates will be disqualified from the examination process.</p> <p>Examples of disruptive behavior during the examination include:</p> <ul style="list-style-type: none"> • Eating and drinking during the examination; • Allowing the alarm features of programmable wristwatches or other timepieces to emit sound; or

- Talking, whispering, or otherwise attempting to communicate with other candidates for any reason.

LEAVING THE ROOM DURING THE EXAMINATION

Candidates will not be permitted to leave the examination room for any purpose unless accompanied by a member of the examination staff. Candidates will NOT receive extra time to complete the examination. Failure to follow this rule will result in the candidate's examination being voided.

7. EXAMINATION RESULTS

NOTIFICATION OF RESULTS

Examination results will be sent to each candidate by mail at the address on file with the program within thirty (30) days of completion of the examination. DO NOT call the Certification and Licensing Division staff or make inquiries by email or in person requesting examination results.

Examination results will NOT be released to third parties.

RE-EXAMINATION

A candidate who fails to pass the written examination may retake the examination two times under the following conditions:

- The candidate is not disqualified from retaking the examination for fraud, dishonesty, or corruption while taking the examination,
- The candidate sends a written request to retake the examination within 30 days of the date of receipt of the examination results,
- The candidate takes the reexamination within 90 days of the date of the notice of the examination results.

Pursuant to ACJA § 7-201 (E)(1)(f)(2)(d), a candidate who has taken and failed the examination three times shall not be allowed to take a further examination unless the Board of Legal Document Preparers grants special permission for the candidate to take another examination. The candidate must submit a written request stating the additional study and preparation the candidate has completed to qualify for an additional examination.

8. REFERENCES

The following list of references provides a complete and comprehensive list of the references related to the examination questions. There are no references listed that are not reflected in the questions which may be present on the examination. All cited references refer to the version of the reference as of April 7, 2005. Any amendments adopted to the references after April 7, 2005 will not be included in the examination. Every reference you will need to be familiar with for the purpose of the examination is contained in section 9 of this study guide.

1. Arizona Code of Judicial Administration § 7-201 (A) – Definitions
2. Arizona Code of Judicial Administration § 7-201 (C) - Purpose
3. Arizona Code of Judicial Administration § 7-201 (D) – Administration

4. Arizona Code of Judicial Administration § 7-201 (E) – Initial Certification
5. Arizona Code of Judicial Administration § 7-201 (F) - Role and Responsibilities of Certificate Holders
6. Arizona Code of Judicial Administration § 7-201 (H) - Complaints, Investigations, Disciplinary Actions, Proceedings and Certification and Disciplinary Hearings
7. Arizona Code of Judicial Administration § 7-208 (A) – Definitions
8. Arizona Code of Judicial Administration § 7-208 (C) – Purpose
9. Arizona Code of Judicial Administration § 7-208 (D) – Administration
10. Arizona Code of Judicial Administration § 7-208 (E) – Initial Certification
11. Arizona Code of Judicial Administration § 7-208 (F) - Role and Responsibilities of Certificate Holders
12. Arizona Code of Judicial Administration § 7-208 (G) – Renewal of Certification
13. Arizona Code of Judicial Administration § 7-208 (J) – Code of Conduct
14. Arizona Code of Judicial Administration § 7-208 (K) – Fee Schedule
15. Arizona Code of Judicial Administration § 7-208 (L) – Continuing Education Policy
16. Rules of the Supreme Court of Arizona, Rule 31. Regulation of the Practice of Law
17. Rules of the Supreme Court of Arizona, Rule 123 (a). Rule 123. Public Access to Judicial Records of the State of Arizona
18. Arizona Rules of Civil Procedure, Rule 4 (b). Summons; Form; Replacement Summons
19. Arizona Rules of Civil Procedure, Rule 4 (d). Process; By Whom Served
20. Arizona Rules of Civil Procedure, Rule 4 (i). Summons; Time Limit for Service
21. Arizona Rules of Civil Procedure, Rule 4.1 (n). Service of Process Within Arizona
22. Arizona Rules of Civil Procedure 6 (a). Computation
23. Arizona Rules of Civil Procedure 7 (a). Pleadings allowed
24. Arizona Rules of Civil Procedure 10 (a). Caption; names of parties
25. Arizona Rules of Civil Procedure 10 (d). Method of preparation and filing
26. Arizona Rules of Civil Procedure 55 (b)(1)(ii). Judgment by default
27. Arizona Revised Statutes § 10-124 (A). Correcting filed document; articles of incorporation; authority to transact business
28. Arizona Revised Statutes § 10-140 (10). Definitions
29. Arizona Revised Statutes § 10-11601 (E)(7). Corporate records
30. Arizona Revised Statutes § 10-11622 (C). Annual report
31. Arizona Revised Statutes § 12-323 (B). Certificate of admission to the practice of law; certified copies of papers; background investigation
32. Arizona Revised Statutes § 13-3602 (O). Order of protection
33. Arizona Revised Statutes § 14-2502 (A). Execution; witnessed wills; holographic wills
34. Arizona Revised Statutes § 14-5312 (A). General powers and duties of guardian
35. Arizona Revised Statutes § 14-5501. Durable power of attorney; creation; validity
36. Arizona Revised Statutes § 22-201 (D). Jurisdiction of civil actions
37. Arizona Revised Statutes § 22-303 (A). Change of venue; limitation
38. Arizona Revised Statutes § 25-302 (A). Procedure and law
39. Arizona Revised Statutes § 25-311 (A). Jurisdiction; form of petition; award of decree
40. Arizona Revised Statutes § 25-320 (D). Child support; factors; methods of payment; additional enforcement provisions; definitions
41. Arizona Revised Statutes § 25-327 (A). Modification and termination of provisions for maintenance, support and property disposition
42. Arizona Revised Statutes § 25-501 (A). Duties of support; exemption
43. Arizona Revised Statutes § 29-632 (A)(1) through (4). Articles of organization

44. Arizona Revised Statutes § 29-635 (A). Formation of limited liability company
45. United States Bankruptcy Court, District of Arizona General Order 89
46. 11 United States Code § 110 (c)(2)
47. Black's Law Dictionary – "jurisdiction"
48. Black's Law Dictionary – "judgment of default"
49. Black's Law Dictionary – "tort"
50. Black's Law Dictionary – "motion"
51. Black's Law Dictionary – "dismissal with prejudice"
52. Black's Law Dictionary – "conservator"
53. Black's Law Dictionary – "lien"

9. APPLICABLE ACJA SECTIONS, RULES, ORDERS AND STATUTES

1. Arizona Code of Judicial Administration § 7-201 (A) – Definitions

A. Definitions. In this section, unless otherwise specified, the following definitions apply:

"Accredited" means placement on a list of nationally recognized authorizing agencies the United States Secretary of Education determines to be reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they sanction.

"ACJA specific section" means the adopted section of the Arizona Code of Judicial Administration (ACJA) applicable to a specified profession or occupation governed by this section, specifically, § 7-202: Fiduciaries; § 7-203: Confidential Intermediary; § 7-205: Defensive Driving Schools and Instructors; § 7-206: Certified Reporters and § 7-208: Legal Document Preparers.

"Active" means a valid and existing certificate to practice in the specified profession or occupation.

"Advisory letter" means written communication from the board notifying a certificate holder the conduct, while not warranting discipline, may result in future disciplinary action if not modified or eliminated. An advisory letter is not a disciplinary action.

"Censure" means a written formal discipline sanction, finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA.

"Certificate holder" means any entity or individual granted and currently holding valid certification pursuant to the applicable ACJA section and Arizona law.

"Certification" means a process conducted by a board to determine if a person or entity meets all requirements to practice in the profession or occupation, pursuant to statutes, court rules and the applicable ACJA section.

“Community college” means an accredited educational institution providing training in the arts, sciences and humanities beyond the twelfth grade of the public or private high school course of study or vocational education, including terminal courses of a technical and vocational nature and basic adult education courses.

“Consent agreement” means a written statement to resolve a certification, complaint or compliance audit matter, voluntarily signed by the applicant or certificate holder.

“Corrective action plan” means the measures outlined and agreed upon by division staff and the certificate holder to correct all deficiencies after a compliance audit or defensive driving course monitoring is completed.

“Deputy director” means the deputy director of the administrative office of the courts (AOC) or the deputy director’s designee.

“Designated principal” means an active certificate holder of a business or public entity who is designated specific responsibilities pursuant to the applicable sections of the ACJA.

“Director” means the administrative director of the courts or the director’s designee.

“Disciplinary clerk” means the individual or the individual’s designee of the certification and licensing division designated to accept all filings relevant to denial of initial or renewal certification of applicants and discipline of certificate holders.

“Division director” means the director of the certification and licensing division of the AOC or the division director’s designee.

“Division staff” means all members of the certification and licensing division of the AOC, including the division director.

“Disciplinary action” means either informal or formal proceedings against a certificate holder, after a finding of probable cause the certificate holder has committed acts of misconduct or violations of statutes, court rules, or the applicable sections of the ACJA.

“Dismissed with prejudice” means final disposition barring future action under this section on the same issue, claim, or cause.

“Dismissed without prejudice” means final disposition with the right to bring future action under this section on the same issue, claim or cause.

“Expired” means the certificate has lapsed on a specified date.

“Filing” or “filed” means a document has been received and date-stamped by the disciplinary clerk.

“Formal statement of charges” means the document setting forth specific alleged acts of misconduct or violations by a certificate holder of statutes, court rules, or the applicable sections of the ACJA, including any amendments, authorized by the board, upon a determination of probable cause.

“Formal disciplinary proceedings” means the process initiated upon a determination of probable cause, the alleged acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by a certificate holder, that if true, would warrant a censure, consent agreement or other negotiated settlement, restrictions, probation, additional training, a cease and desist order, suspension or revocation of certification pursuant to subsection (H)(24)(a)(6).

“Good cause” means a legally sufficient ground or reason based upon the circumstances of the presented case.

“Hearing officer” means an individual appointed by the supreme court to preside over administrative hearings pursuant to this section.

“Inactive” means a certificate holder who voluntarily decides not to practice in the specified profession or occupation for a specified period of time and who is not the subject of any pending disciplinary action.

“Informal disciplinary proceedings” means the process initiated upon a determination of probable cause the alleged acts of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA by a certificate holder, that if true, would warrant a letter of concern, pursuant to subsection (H)(24)(a)(6)(a).

“Injury” means harm to a client, customer, the public, judicial or legal system, the profession, or occupation resulting from a certificate holder’s misconduct.

“Knowledge” is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.

“Letter of concern” means a written informal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or the applicable sections of the ACJA.

“Minimum competencies” means having the required skills for an adequate level of performance.

“Negligence” means deviation from the standard of care a reasonable certificate holder would exercise in the situation.

“Probable cause” means reasonable grounds for belief in the existence of facts concerning alleged acts of misconduct or violations by a certificate holder, warranting informal or formal discipline against the certificate holder.

“Probation” means a written formal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA but allowing the certificate holder to practice in their profession or occupation under specified conditions for a set period of time.

“Professional regulatory entity” means a government or private unit associated with and having authority over a group of qualified and practiced individuals in a profession or occupation.

“Revoked” or “revocation” means a written formal discipline sanction, finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA and the certificate to practice in the profession or occupation is rescinded.

“Sanction” means an explicit and official action resulting from an informal or formal disciplinary action finding a certificate holder has violated or failed to comply with one or more of the statutes, court rules, applicable sections of the ACJA, court orders or board orders relevant to the certificate holder’s profession or occupation.

“Section” means the referenced provision of the ACJA.

“Suspended” or “suspension” means a written formal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA and the certificate holder is not permitted to exercise the privileges of the certificate for a set period of time as the result of a final order of disciplinary action.

“Valid” means a certificate currently in effect, granted by the board and not expired, surrendered, suspended, or revoked.

“Voluntary surrender” means a certificate holder decides to discontinue practice in the specified profession or occupation and returns the certificate to the board for review and acceptance pursuant to subsection (E)(7).

2. Arizona Code of Judicial Administration § 7-201 (C) - Purpose

C. Purpose. This section specifies the application, certification and renewal of certification process, the complaint and disciplinary process and the hearing process for the certification programs. The primary purpose of the certification and discipline processes is protection of the public. In addition, the certification programs ensure compliance to the highest ethical standards, rehabilitation of the certificate holder and deterrence of further unprofessional conduct pursuant to subsection (H)(6)(k), in accordance with statutes, court rules and ACJA.

3. Arizona Code of Judicial Administration § 7-201 (D) – Administration

D. Administration.

1. Role and Responsibilities of the Supreme Court. Pursuant to A.R.S. § 8-134(I), § 14-5651(A), § 28-3395(B), § 32-4005(A) and Rule 31(a)(23), Rules of the Supreme Court, the supreme court is responsible for administering the confidential intermediary program, fiduciary program, defensive driving program, certified reporter program and legal document preparer program. The supreme court shall:

- a. Adopt rules for the implementation and administration of all certification programs including minimum qualifications, certification and disciplinary processes and a code of conduct.
 - b. Establish and collect fees, costs and fines necessary for the implementation and enforcement of all certification programs.
2. Role and Responsibilities of the Director. The director as designated by the Az. Const. Art. 6 § 7:
- a. Shall:
 - (1) Develop policies and procedures in conformity with this section and the applicable sections of ACJA including §§ 7-202, -203, -205, -206 and -208;
 - (2) Appoint and supervise all division staff;
 - (3) Approve or disapprove all budgetary matters;
 - (4) Ensure implementation of the applicable laws, this section and the applicable sections of the ACJA;
 - (5) Develop policies and procedures regarding review of credit reports;
 - (6) Develop policies and procedures governing any complaint initiated by the director; and
 - (7) Develop time frames for the processing of certification applications by division staff.
 - b. May:
 - (1) Appoint and develop administrative guidelines for ethics advisory committees to issue nonbinding ethical advisory opinions;
 - (2) Direct division staff to conduct an investigation into alleged acts of misconduct or violations by a certificate holder pursuant to subsection (H)(1)(b);
 - (3) Initiate a complaint pursuant to subsection (H)(1)(b)(4)(b); and
 - (4) Pursuant to the applicable sections of the ACJA, administrative orders and A.R.S. §§ 28-3399 and 41-2401(D)(8), initiate a compliance audit of a certificate holder to determine if the certificate holder is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA and any other legal or ethical requirement relating to the certificate holder's profession or occupation. The following provisions apply to audits:
 - (a) Timeframes. The director shall develop timeframes and procedures for division staff conducting compliance audits.
 - (b) Confidentiality.
 - (i) Working papers associated with the compliance audit maintained by division staff are not public records and are not subject to disclosure, except to court staff in connection with their official duties, the attorney general, county attorney, public regulatory entities or law enforcement agencies.
 - (ii) Upon completion of an audit the final report issued to the affected party is a public record subject to public inspection.
 - (c) Subpoena. The director may subpoena witnesses or documentary

evidence, administer oaths and examine under oath any individual relative to the audit.

(d) Referral. The director may refer the audited certificate holder to an applicable agency or division staff for investigation of alleged acts of misconduct or violations of the statutes, court rules, this section or the applicable sections of the ACJA. If the director refers the audited certificate holder to division staff for investigation of allegations of acts of misconduct or violations, the division staff shall process the complaint pursuant to subsection (H).

(e) Violations or Noncompliance. Wilful violation of or wilful noncompliance with an order of the director regarding the audit, or wilful noncompliance with a corrective action plan resulting from an audit, may result in an order directing the certificate holder to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of a person or business, compliance with the director's order, or both. The superior court may treat the failure to obey the order as contempt of court and may impose penalties as though the certificate holder had disobeyed an order issued by the superior court.

3. Role and Responsibilities of the Deputy Director. The deputy director shall:

- a. Serve as the probable cause evaluator, pursuant to subsection (H)(5)(a);
- b. Review the investigation summary of a complaint prepared by division staff; and
- c. Determine if there is probable cause to believe a certificate holder has committed acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA.

4. Role and Responsibilities of Division Staff. The director shall designate the division director and other division staff to assist in the administration of all certification programs pursuant to the Az. Const. Art 6, § 7. Division staff shall administer all certification programs.

a. Role and Responsibilities of the Division Director. The division director may:

- (1) Issue subpoenas in the investigation process pursuant to subsection (H)(1)(h);
- (2) Dismiss complaints where the supreme court has no jurisdiction pursuant to subsection (H)(2)(b)(2);
- (3) Dismiss clearly insufficient complaints pursuant to subsection (H)(2)(b)(3); and
- (4) Refer complaints to another state agency or entity with jurisdiction, if appropriate, pursuant to subsection (H)(2)(b)(4).

b. Division staff shall:

- (1) Submit completed applicant fingerprint cards and applicable fees to the Arizona Department of Public Safety, in accordance with A.R.S. § 41-1750

- and Public Law 92-544, pursuant to subsection (E)(1)(d)(3);
- (2) Make recommendations to the board on all matters of applications and certification and any other matters regarding applicants and certificate holders;
 - (3) Provide updates to the board on program activities;
 - (4) Maintain a list of certificate holders and post the list on the applicable Website and make the list available to the public;
 - (5) Conduct investigations of allegations of acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by applicants, certificate holders or non-certificate holders and report the findings to the board; and
 - (6) Conduct compliance audits and monitoring as required by this section or the applicable sections of the ACJA.

5. Role and Responsibilities of Professional and Occupational Boards.

- a. Establishment. The supreme court shall establish a board for each profession or occupation regulated by the supreme court pursuant to this section and the applicable ACJA section.
- b. Appointment of members. Upon establishment of a board, the chief justice shall appoint members to initial varying terms of one, two and three years to encourage continuity of the board. Thereafter, all terms are for three years, unless otherwise noted in the applicable ACJA section. The chief justice shall appoint the chair of each board who shall serve as chair no longer than three years, unless otherwise specified in the applicable ACJA section. If a vacancy occurs in a board member position, the chief justice shall fill the vacancy expeditiously in the manner provided for in the original appointment. The appointments shall provide geographical, gender and ethnic diversity and consist of members of the regulated profession or occupation, court staff, the public and other professionals pursuant to the applicable ACJA section. The chief justice may appoint members to serve successive terms. The members shall assist division staff in the recruitment of board members and in the recommendation to the chief justice regarding appointment of candidates to the board.
- c. Duties of the Board.
 - (1) The board shall:
 - (a) Make recommendations to the supreme court regarding rules, policies and procedures for regulation of the profession or occupation, including:
 - (i) applicant qualifications;
 - (ii) applicant testing;
 - (iii) fees;
 - (iv) a code of conduct;
 - (v) continuing education; and
 - (vi) any other matter pertaining to the regulated profession.
 - (b) Establish a passing score on any examination used for certification purposes, other than a national validated examination;

- (c) Make all decisions regarding requests for special consideration to sit for subsequent examinations pursuant to subsection (E)(1)(f)(2)(d)(ii) and (iii);
- (d) Make all decisions regarding whether to certify applicants for initial or renewal of certification;
- (e) Review the division director's dismissal of a complaint, pursuant to subsection (H)(2)(d);
- (f) Review the probable cause evaluator's finding pursuant to subsection (H)(5)(a) and make a decision to:
 - (i) Request division staff to conduct further investigation;
 - (ii) Refer the complaint to another entity with jurisdiction;
 - (iii) Determine no violation exists and dismiss the complaint with or without prejudice, pursuant to subsection (H)(24)(a)(3);
 - (iv) Order the preparation of documents necessary for informal or formal disciplinary actions pursuant to subsection (H)(7)(b), (H)(8)(b) or (H)(9)(b); or
 - (v) Order an immediate emergency suspension of a certificate and set a date for an expedited hearing, if the public health, safety or welfare are at risk, pursuant to subsection (H)(9)(d)(1); and
- (g) Make all final decisions regarding alleged acts of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA by applicants, certificate holders or noncertificate holders pursuant to subsections (H)(24) and (H)(25). The board has the final decision on the disposition of a complaint and may take any action pursuant to subsection (H)(24), regardless of the recommendations of the division director or hearing officer.

(2) The board may:

- (a) Hold informal interviews of applicants regarding initial certification and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (E)(1)(a)(10);
- (b) Hold informal interviews of certificate holders regarding renewal of certification and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (G)(1)(b);
- (c) Request additional investigation of a complaint dismissed by the division director, pursuant to subsection (H)(2)(d)(2);
- (d) Hold formal interviews of certificate holders regarding disciplinary matters, whether any discipline is eventually imposed or not, and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (H)(8); and
- (e) Make procedural determinations to consolidate or sever any discipline matter.

d. The board shall follow the policies and procedures in subsection (I).

e. Persons appointed by the supreme court to serve on boards are immune from civil liability for good faith conduct relating to their official duties.

6. Computation of Time. For the purposes of this section and the ACJA specific section, the computation of days pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows:

[T]he day of the act, event or default from which the designated period of time begins to run shall not be included . . . if less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

4. Arizona Code of Judicial Administration § 7-201 (E) – Initial Certification

E. Initial Certification.

1. Application for Initial Certification.

a. Forms. An applicant shall apply for certification on approved forms and file them with division staff.

- (1) Division staff shall conduct a preliminary review of the submitted application and determine if the application is deficient, the required supporting documents are deficient, fees are deficient, or a combination of these requirements are deficient.
- (2) Division staff shall advise the applicant in writing of the deficiencies.
- (3) The applicant shall provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees.
- (4) Division staff may require the applicant to provide additional information or an explanation reasonably necessary to determine if the applicant meets the required qualifications specified in this section or the applicable sections of the ACJA.
- (5) Upon receipt of a complete application, division staff may conduct a personal credit review and review records regarding an application for initial certification, consistent with the policies and procedures developed by the director pursuant to subsection (D)(2)(a)(5).
- (6) The applicant shall notify division staff of any changes relevant to the application for certification within five days of the change.
- (7) Upon a final review of the application, division staff shall prepare and forward to the board a written recommendation regarding the applicant's qualifications and eligibility for certification.
- (8) Division staff shall advise the board in any written recommendation regarding certification of an applicant, of any complaints alleging acts of misconduct or violations of statute, court rules or order, this section, or the applicable sections of the ACJA, if the allegations occurred during the time the applicant held an active certificate and were received after the applicant's certificate expired.
- (9) The division staff's written recommendation to the board shall note any deficiencies in the application. A deficient application for initial certification is lacking one or more of the following requirements:
 - (a) An explanation or correction of any deficiencies, pursuant to subsection (E)(1)(a)(4);

- (b) Payment of all appropriate fees, pursuant to subsection (E)(1)(b);
 - (c) A photograph, pursuant to subsection (E)(1)(c); or
 - (d) A readable fingerprint card or affidavit in lieu of a fingerprint card, pursuant to subsection (E)(1)(d).
- (10) The board, upon review of the division staff recommendation, may request an informal interview with an applicant for certification, pursuant to subsection (D)(5)(c)(2)(a), to establish if:
- (a) Additional information is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA;
 - (b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA; or
 - (c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules or applicable sections of the ACJA, received after the applicant's original certificate expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).
- b. Fees. The applicant shall submit, with the application, any applicable certification, examination and training fees specified in the applicable sections of the ACJA. Fees are not refundable or waivable. An applicant shall make the payment for any fee payable to the Arizona Supreme Court. An application submitted without fees is deficient.
- c. Photograph. The applicant for certification shall provide with the application, one color passport-size photograph, two inches by two inches of the applicant's head, neck and shoulders only. The applicant shall ensure the photograph was taken within the last two years and clearly identifies the applicant. An application submitted without a photograph is deficient.
- d. Fingerprinting. If required pursuant to law, the applicant shall submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check. An application submitted without a fingerprint card, if required by law, is deficient.
- (1) The applicant shall provide a readable and complete fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.
 - (2) If after two attempts, the FBI determines the fingerprints provided are not readable, the applicant shall submit a written statement, under oath, the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.
 - (3) Division staff shall submit completed applicant fingerprint cards and the applicable fees to the Arizona Department of Public Safety, pursuant to A.R.S. § 41-1750, Public Law 92-544 and subsection (D)(4)(b)(1).
- e. Initial Training. If required by the applicable section of the ACJA, an applicant shall attend and complete the initial training session. Division staff shall provide the applicant with a document signifying the applicant completed the

training. If required by the applicable section of the ACJA, an applicant shall attend the entire training session for eligibility to sit for a certification examination.

- f. Examination. If required by the applicable section of the ACJA, an applicant shall take and pass the examination for initial certification. Specific examination requirements are located in subsection (E) of the applicable ACJA section. National examinations shall be at the time and place scheduled by the administering entity.

(1) Administration of the Initial Examination. In administering the examination, division staff shall:

- (a) Offer the examination on dates in conjunction with the initial training for certification, if initial training is required by the applicable section of the ACJA;
- (b) Set a date and place for the examination;
- (c) Promptly notify qualified applicants in writing they are permitted to sit for the examination, specifying the time and place of such examination;
- (d) Publish in advance of the examination, content specifications for the examination and a study guide, as approved by the applicable board and make the specifications and study guide available to applicants;
- (e) Announce, in advance of the examination, the passing score for the examination, as established by the applicable board. The passing score shall be consistent with the job analysis conducted at the direction of the board. An applicant shall pass with a final score on the examination meeting the guidelines established by the board;
- (f) Use multiple versions of the examination and ensure no copies of the examination are released to applicants or the public;
- (g) Inform each applicant in writing as to whether the applicant passed or failed the examination and if the grade is failing, a reexamination is required to meet all qualifications for certification; and
- (h) Make and keep an accurate record of each examination used at each administration of the examination and the score of each person taking the examination.

(2) Administration of Reexaminations. Division staff shall allow an applicant who fails the first examination to:

- (a) Review the answer sheet and grade of the applicant, upon written request. The applicant shall conduct the review during business hours in the presence of division staff and the applicant shall not copy materials provided for review.
- (b) Retake the examination two times under the following conditions:
 - (i) The applicant is not otherwise disqualified from retaking the examination;
 - (ii) The applicant sent a written request to retake the examination to division staff within 30 days of the date of the notice of the examination results;
 - (iii) The applicant files a new application and pays the applicable examination fee each time;
 - (iv) The applicant takes the second or third reexamination within 90 days of the date of the notice of the examination results indicating the applicant failed either the first or second examination; and

- (v) An applicant who does not submit a written request to retake the examination within the 30 day time frame specified in subsection (E)(1)(f)(2)(b)(ii), may request an extension of time from the board upon a showing of good cause.
- (c) An applicant taking and failing the examination three times, unless otherwise noted in the applicable ACJA section, shall not be permitted to take any subsequent examination unless granted permission by the board.
- (d) Subsequent Examinations.
 - (i) Any applicant who was unsuccessful on the third attempt to pass the examination may request the board for permission to sit for a fourth examination. The applicant shall submit a written request to the board to sit for a fourth examination under the following conditions:
 - a) The applicant has filed a new application with division staff and paid the appropriate examination fee;
 - b) The applicant is not otherwise disqualified from taking the subsequent examination;
 - c) The applicant has provided documentation attached to the new application stating the additional study and preparation the applicant has made to qualify for a fourth examination; and
 - d) The applicant has provided documentation attached to the new application demonstrating the circumstances and reasons for believing the applicant now possesses the knowledge of the minimum competencies of the profession or occupation to pass the fourth examination.
 - (ii) If the board finds the applicant demonstrates additional study and preparation and the circumstances and reasons to believe the applicant now possesses the knowledge of the minimum competencies of the profession or occupation, the board may, pursuant to subsection (D)(5)(c)(1)(c), approve the applicant's request to sit for the fourth examination. Division staff shall inform the applicant of the board's decision to allow the applicant to sit for the fourth examination within ten days of the board's decision. The notice shall state the earliest date for which the applicant may sit for the fourth examination.
 - (iii) If the board finds the applicant does not demonstrate additional study and preparation and the circumstances and reasons to believe the applicant now possesses the knowledge of the minimum competencies of the profession or occupation, the board shall, pursuant to subsection (D)(5)(c)(1)(c), deny the applicant's request to sit for the fourth examination. Division staff shall inform the applicant of the board's decision to deny the applicant's request to sit for the fourth examination within ten days of the board's decision. The notice shall state the reasons for the board's denial. The decision by the board to deny the request is final and there is no right to a hearing.
 - (iv) If the applicant's request to sit for the fourth examination is denied, the applicant may file a new application twelve months after the board's decision to deny.
 - (v) An applicant who was unsuccessful on the fourth or any

subsequent examinations may request permission from the board to sit for a subsequent examination pursuant to subsection (E)(1)(f)(2)(d).

- g. An applicant is disqualified from taking any future examination if the board determines the applicant engaged in fraud, dishonesty or corruption while taking the examination or any subsequent examination.
- h. Updating of Examinations. Division staff shall update examinations as needed and may ask representatives from the court community, regulated profession or occupation, the public, or any other knowledgeable resource to assist in the development and validation of examinations for the applicable sections of the ACJA.

2. Decision Regarding Certification.

- a. Notification of Certification. Upon the board's decision to issue a certificate, division staff shall promptly notify qualified applicants of certification in writing, pursuant to this section and the applicable section of the ACJA. Each qualified applicant shall receive a document, badge or card evidencing certification, stating the applicant's name, date of certification, certificate number and expiration date of the certification. Each certificate shall expire as provided in the applicable section of the ACJA. In addition, unless previously provided, each applicant granted certification shall receive a copy of this section and the applicable section of the ACJA, detailing the responsibilities of the certificate holder.
- b. Certificate Status. All certificates are valid until expired, surrendered, suspended or revoked.
- c. Denial of Initial Certification.
 - (1) The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the ACJA; or has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.
 - (2) The board may deny certification of any applicant if one or more of the following is found:
 - (a) Material misrepresentation, omission, fraud, dishonesty, or corruption on the part of the applicant in the examination for certification;
 - (b) The applicant or an officer, director, partner, member, trustee, or manager of the applicant:
 - (i) Has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form;
 - (ii) Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;
 - (iii) Has conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is incompetent or a source of injury and loss to the public;
 - (iv) Has a conviction by final judgment of a felony, regardless of whether civil rights have been restored;
 - (v) Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored;
 - (vi) Has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate;
 - (vii) Has a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to the certification sought;
 - (viii) Has a termination, suspension, probation or any other disciplinary action regarding past employment if the underlying conduct is

- relevant to the certification sought;
 - (ix) Has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft or conversion;
 - (x) Is currently on probation or parole;
 - (xi) Has violated any decision, order, or rule issued by a professional regulatory entity;
 - (xii) Has violated any order of a court, judicial officer, administrative tribunal, or the board;
 - (xiii) Has made a false or misleading statement or verification in support of an application for a certificate filed by another person;
 - (xiv) Has made a false or misleading oral or written statement to division staff or the board;
 - (xv) Failed to disclose information on the certification application subsequently revealed through the background check;
 - (xvi) Failed to respond or furnish information to division staff or the board when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to certification or investigative inquiries; or
 - (xvii) If the applicant is a business, a record of conduct constituting dishonesty or fraud on the part of an employee, board member, or the business.
- (3) The board may consider any or all of the following criteria when reviewing the application for certification of an applicant with a misdemeanor or felony conviction, pursuant to subsection (E)(2)(c)(2)(b)(iv) and (v):
- (a) The applicant's age at the time of the conviction;
 - (b) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;
 - (c) The degree of violence, injury or property damage and the cumulative effect of the conduct;
 - (d) The applicant's level of disregard of ethical or professional obligations;
 - (e) The reliability of the information regarding the conduct;
 - (f) If the offenses involved fraud, deceit or dishonesty on the part of the applicant resulting in harm to others;
 - (g) The recency of the conviction;
 - (h) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;
 - (i) The relationship of the conviction to the purpose of certification;
 - (j) The relationship of the conviction to the applicant's field of certification;
 - (k) The applicant's candor during the application process;
 - (l) The significance of any omissions or misrepresentation during the application process; and
 - (m) The applicant's overall qualifications for certification separate from the conviction.
- (4) Upon the board's decision to deny certification, division staff shall, notify each applicant denied certification of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection (E)(2)(c)(5). Division staff shall provide the notice in writing and shall send the notice within ten days after the board's decision.
- (5) An applicant is entitled to a hearing on the decision to deny certification, if the disciplinary clerk receives a written request for a hearing within fifteen days after division staff mails the notice of the denial. The applicant is the

moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for the hearing and appeal.

- (6) An applicant denied certification by a final decision of the board, whether or not a hearing was requested and held, may reapply for certification, pursuant to subsection (E), under the following circumstances:
 - (a) It has been twelve months since the final decision by the board;
 - (b) If the initial reasons for denial were failure to meet the education and experience requirements, the applicant shall attach to the new application written documentation demonstrating how the circumstances have changed to meet these requirements:
 - (i) Division staff shall review the new application and supporting documentation and consider if the applicant now meets the education and experience requirements;
 - (ii) Division staff shall notify the applicant in writing within ten days if the applicant has now provided sufficient documentation to demonstrate the applicant meets the education and experience requirements pursuant to this section and the applicable ACJA sections or has not provided sufficient documentation to demonstrate the applicant now meets the education and experience requirements;
 - (iii) If the applicant has met the education and experience requirements necessary for certification, division staff shall forward the application to the board pursuant to subsection (E)(1)(a)(7);
 - (iv) If the applicant has not met the education and experience requirements necessary for certification, division staff shall forward the application to the board noting the deficiencies and a recommendation for denial pursuant to subsection (E)(1)(a)(9) and provide written notice to the applicant of the deficiencies and recommendation; and
 - (v) The applicant may request an informal interview with the board to review the recommendation of division staff for denial of certification because of the deficiencies, if the request is submitted to the board in writing within ten days of the date of the notification.
 - (c) If the board denied certification for reasons other than failure to meet the education or experience requirements, the applicant shall present new documentation to address the original issues resulting in denial including all of the following:
 - (i) Demonstration of acceptance of responsibility for the conduct leading to the denial by the board; and
 - (ii) Establishment of good moral character.
 - (d) In determining whether the applicant has established good moral character, the board shall conduct an informal interview with the applicant, no later than 60 days after the applicant has submitted a completed application.
 - (e) Upon a showing of good cause, the applicant may apply for certification sooner than twelve months if denied solely for lack of education or experience necessary for certification, if those circumstances have changed.

- (f) The applicant may not reapply for certification if there are statutory provisions prohibiting certification as specified in the applicable ACJA section.

3. Time Frames for Certification.

- a. The director shall develop time frames for the processing of certification applications by division staff, pursuant to subsection (D)(2)(a)(7).
- b. An applicant shall respond timely to requests for information from division staff pertaining to the applicant's application. Unless the applicant can show good cause as to why the board should grant additional time, the board shall not approve any applicant for certification unless the applicant successfully completes all requirements within 90 days from the date division staff received the original initial application for certification or within 90 days of the applicant passing the examination for certification if required by the applicable section of the ACJA.
- c. If an applicant needs additional time to comply with division staff requests or to complete the application process within the time frames specified in this subsection, the applicant shall file a written request for an extension with division staff. The request shall state the reasons for additional time to comply with time frames and certification requirements. The applicant shall file the request for additional time to complete the initial application at a minimum, ten days prior to the 90 day deadline, unless the applicant makes a showing of good cause. Failure to complete the certification process or file a written request for an extension of time within this time period shall nullify and void the original application and supporting documents, including fingerprints, fees and the applicable examination scores.
- d. Division staff shall forward the written request for an extension of time to the board at the next scheduled board meeting.
- e. If the applicant fails to meet the 90 day deadline or is not granted additional time by the board to complete the initial certification process, the applicant is considered a new applicant. The applicant shall submit a new application including a fingerprint card and fee if applicable and certification and training fees. The applicant is not required to sit for the examination if the applicant submits the new application within one year of having successfully passed the required examination.

4. Records of Applicants for Certification and Certificate Holders. Unless otherwise provided by law, the following applies to applicant and certificate holder records:

- a. Applicant and certificate holder's certification records are open to the public, after home addresses, home or cellular telephone numbers, social security numbers and all other personally identifying information, except for the name of the certificate holder, have been redacted.

- b. Division staff shall retain applicant and certificate holder records for a period of five years from the last activity in the record. Division staff shall take appropriate methods to ensure the confidentiality of any destroyed records.
 - c. If an applicant or certificate holder needs to have personally identifying information contained in their files released to an employer or potential employer, the applicant or certificate holder shall sign a release of information form. Division staff shall provide the applicant or certificate holder with an approved form for this purpose.
5. Unlawful Use of Designation or Abbreviation. A person who has received a certificate to practice in a specific profession or occupation from the board is authorized to utilize the designation of "Arizona certified" in connection with their title or name and may use any appropriate abbreviation connected with this certification. No other person or business shall assume or use the title, designation or abbreviation or any other title, designation, sign or card, the use of which is reasonably likely to induce others to believe the person or business holds valid certification issued by the Arizona Supreme Court in the specified profession or occupation. The certificate holder shall not sell, transfer or assign its certification to any other entity.
6. Cease and Desist Order. The board, upon completion of an investigation or disciplinary proceeding, may issue a cease and desist order pursuant to subsection (H)(24)(a)(6)(g). A hearing officer or a superior court judge, upon petition by the board, may enter an order for an individual or business entity to immediately cease and desist conduct constituting engagement in the practice of the profession or occupation without the required certification.
7. Voluntary Surrender. A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.
- a. Division staff shall present the surrendered certificate to the board at the next available board meeting after receiving the surrender. Upon the board's acceptance of the voluntary surrender division staff shall designate the certificate of the certificate holder as a "surrendered certificate holder in good standing". Division staff shall notify the certificate holder in writing within ten days after the board's acceptance of the surrender.
 - b. The board shall not accept the surrender if there is a complaint pending against the certificate holder. However, this does not preclude the board from entering into a consent agreement to resolve the pending complaint pursuant to subsection (H)(24)(a)(6)(c) by terms including the voluntary surrender of the certificate.
 - c. The board shall, within 120 days of the receipt of the surrendered certificate by division staff either accept the surrender or, based upon the

recommendations of division staff, institute disciplinary proceedings pursuant to subsection (H). If the board subsequently imposes a sanction pursuant to subsections (H)(24) and (H)(25) upon the certificate of the surrendered certificate holder, division staff shall change the status of the certificate holder from “surrendered certificate holder in good standing” to that of a person so disciplined.

8. Inactive Status.

- a. A certificate holder may transfer to inactive status, upon written request to the board. Upon recommendation of division staff the board may accept the transfer of the certificate holder to inactive status and division staff shall note in the certification database the certificate holder is on inactive status, in good standing. The inactive certificate holder shall not engage in the practice of the profession or occupation of certification pro bono or for a fee or other compensation while on inactive status and shall not present themselves as a certificate holder.
- b. Upon application and payment of any applicable fee for reactivation of certification, required by the applicable section of the ACJA, the board may require the applicant to comply with the following:
 - (1) Submit proof of compliance with the requirements for continuing education;
 - (2) Submit other proof required by the board to:
 - (a) Demonstrate the applicant possesses the skills necessary to practice in the profession or occupation;
 - (b) Demonstrate the applicant remains in compliance with the applicable ACJA sections; and
 - (c) Demonstrate compliance with other requirements for certification.
 - (3) If the applicant for reinstatement engaged in the profession or occupation in another jurisdiction during the time the certificate holder's certificate was inactive, the applicant shall submit all of the following:
 - (a) Proof of practice in the profession or occupation in the other jurisdiction;
 - (b) An affidavit affirming the applicant has not been disciplined in another jurisdiction; and
 - (c) An affidavit affirming the applicant is not subject to discipline or being investigated in another jurisdiction.
 - (4) If the applicant has been inactive for more than one year the board may require the applicant to sit for and pass the applicable examination.
- c. If the applicant meets the requirements of this subsection to the satisfaction of the board, the board shall return the inactive certificate holder to active status. Division staff shall change the status of the certificate holder from “inactive” to “active” and notify the certificate holder of the board's decision within ten days.
- d. A certificate holder shall only remain in an inactive status as specified by the applicable ACJA section.

9. Reinstatement after Suspension or Revocation. A certificate holder whose certificate was suspended or revoked by a final order of the board may apply for reinstatement under the following conditions:
- a. An applicant for reinstatement shall file a written application for reinstatement with division staff, accompanied by the appropriate fees and the following documents:
 - (1) The reinstatement form and a copy of the final order of suspension or revocation;
 - (2) A detailed description of the applicant's occupation and sources of income or earnings derived during the period between the filing of the final order by the disciplinary clerk and the date of application for reinstatement after suspension or an initial application for recertification;
 - (3) A statement of every civil or criminal action and a copy of the action, where the applicant was either plaintiff or defendant, since the submission of the last renewal application or, if no renewal application has been submitted, then since the initial application was submitted;
 - (4) A list of all criminal or civil final judgments since the submission of the last renewal application, or if no renewal application has been submitted, then since the initial application was submitted;
 - (5) A list of all residences and business addresses since the submission of the last renewal application, or if no renewal application has been submitted, then since the initial application for certification and the date division staff receive the application for reinstatement;
 - (6) A statement of concise facts of how the applicant for reinstatement has maintained the minimum competencies and knowledge during the period of time from the date of the suspension order until the date division staff receives the reinstatement application;
 - (7) A statement of concise facts of how the applicant for recertification has maintained the minimum competencies and knowledge during the period of time from the date of the order revoking the applicant's certificate until the date division staff receive the application for certification;
 - (8) A statement of facts supporting reinstatement to the profession or occupation after suspension; or a statement of facts supporting certification again to the profession or occupation; and
 - (9) A statement of all facts demonstrating the applicant's rehabilitation during the period of time from the date of the board's order revoking the applicant's certificate or suspending the applicant's certificate, until the date division staff receive the application for reinstatement or initial certification.
 - b. Division staff or the board may require additional information demonstrating the applicant meets the minimum competencies of the profession or occupation. The board may require the applicant sit for and pass the applicable examination in order to process the application or determine if the applicant meets the minimum competencies of the profession or occupation. The applicant has the burden of proof to demonstrate by clear and convincing evidence the applicant's rehabilitation, compliance with all discipline orders and rules and, the applicant meets the minimum competencies of the profession or occupation. An applicant denied reinstatement by the board has the right to a hearing pursuant to subsection (H)(12), except if the

applicant fails to provide the information within the requested time frame. Failure to provide the information shall result in automatic denial of reinstatement without the right to a hearing.

- c. Upon submission of all requirements of subsection (E)(9)(a), the applicant shall meet all requirements of initial certification pursuant to subsection (E)(1). The applicant, for reinstatement after a suspension or revocation, shall pay the fee for reinstatement, pursuant to subsection (K) in the applicable section of the ACJA.
- d. The board shall not issue any certification under this section to any person or business entity whose certification has been suspended until:
 - (1) The person or business entity seeking reinstatement of a suspended certificate has demonstrated all the requirements of the suspension order have been met; and
 - (2) The person or business entity qualifies in accordance with the applicable provisions of this section or other sections of the ACJA.
- e. The board shall not issue any certification under this section to any person or business entity whose certification has been revoked until:
 - (1) One year has passed from the date of the board's final order of revocation;
 - (2) The person or business entity seeking certification provides proof of satisfaction of any and all requirements in the order of revocation; and
 - (3) The person or business entity again qualifies in accordance with the provisions of subsection (E)(1) and the applicable sections of the ACJA.

5. Arizona Code of Judicial Administration § 7-201 (F) - Role and Responsibilities of Certificate Holders

F. Role and Responsibilities of Certificate Holders.

- 1. Code of Conduct. Each individual certificate holder shall adhere to the code of conduct or standards of conduct, subsection (J) in the applicable section of the ACJA.
- 2. Identification. Upon request by any judicial officer, court employee or member of the public, a certificate holder shall provide proof of certification.
- 3. Assumed Business Name. A certificate holder shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the legal name of the individual or business entity unless the person or business entity files with division staff a statement indicating the name for transaction of the business and the legal full name of the certificate holder.
- 4. Response. A certificate holder shall respond by the specific time stated in any request for information from, and shall provide documents to the director, deputy director, division staff, or board pertaining to certification, renewal of certification,

complaints alleging acts of misconduct or violations by the certificate holder, investigative inquiries and compliance audits or defensive driving course monitorings of the practice of the certificate holder. A certificate holder shall respond to any subpoenas or orders issued by the director, division director, board, or any judicial officer. Failure to comply with this subsection by a certificate holder constitutes grounds for discipline pursuant to subsection (H)(6)(c) or denial of renewal of certification pursuant to subsection (G)(3) and (G)(4). Failure to comply with this subsection by a certificate holder in completion of a corrective action plan or defensive driving course monitoring may constitute grounds for discipline, pursuant to subsection (H)(6)(b).

5. Candor.

a. A certificate holder shall not knowingly:

- (1) Make a false statement of material fact or law to a tribunal; or
- (2) Fail to disclose a material fact to a tribunal, except as required by applicable law.

b. A certificate holder shall notify division staff within ten days of a misdemeanor or felony conviction.

6. Change of Name or Address. A certificate holder shall notify division staff of any change in name or business, directory, mailing or home address, telephone number or email address within 30 days of any change, pursuant to the applicable sections of the ACJA. The certificate holder shall make this notice in writing by U.S. Post, facsimile or email.

6. Arizona Code of Judicial Administration § 7-201 (H) - Complaints, Investigations, Disciplinary Actions, Proceedings and Certification and Disciplinary Hearings

H. Complaints, Investigations, Disciplinary Actions, Proceedings and Certification and Disciplinary Hearings.

1. Complaints. Filing and General Provisions.

b. a. Filing of complaint. All judicial officers, court employees and certificate holders shall, and any person may, notify division staff if it appears a certificate holder has violated statutes, court rules, this section or the applicable section of the ACJA. The complainant shall provide the complaint in writing with sufficient specificity to warrant further investigation. The complaint form shall provide the name, telephone number and address of the complainant.

b. Director initiated complaints. In accordance with the policies and procedures developed pursuant to subsections (D)(2)(a)(6) and (D)(2)(b)(2), the director may direct division staff to investigate allegations of acts of misconduct or violations of statutes, court rules, or the ACJA, which may result in a complaint, if such investigation protects and serves the best interest of the public. This shall

include an investigation where the complainant does not wish to have their identity disclosed to the certificate holder.

- (1) Review of allegations. Division staff shall:
 - (a) Review the allegations and determine if the supreme court has jurisdiction;
 - (b) Determine if there is sufficient information to permit investigation;
 - (c) Verify details in the allegations including the certificate holder's status and, if available, any addresses, phone numbers or other relevant factors;
 - (d) Corroborate, by independent observations and information, the allegations of acts of misconduct or violations of statutes, court rules or the ACJA, to determine if the allegations are credible and reliable; and
 - (e) Meet with the division director to confirm jurisdiction and relevant factors contained in the allegations.
 - (2) Division staff shall, upon completion of the review, prepare a written report of the allegations and include the following:
 - (a) Confirmation of supreme court jurisdiction;
 - (b) Determination, if the allegations are true, they would warrant discipline;
 - (c) Verification of details in the allegations; and
 - (d) Corroboration of relevant facts by independent observations.
 - (3) Division staff shall forward the written report to the director for review and schedule a meeting with the director and division director.
 - (4) The director shall review the written report and direct staff to:
 - (a) Conduct further review of the allegations;
 - (b) Initiate a complaint naming the director as the complainant, pursuant to subsection (D)(2)(b)(3); or
 - (c) Determine the allegations do not warrant the filing of a director initiated complaint.
- c. Anonymous complaints. Division staff shall not accept anonymous complaints.
- d. Authority after expiration. If a complaint or investigation is pending prior to the expiration date of a certificate, the provisions of subsection (G)(1) and the applicable sections of the ACJA do not affect the authority of:
- (1) The director to initiate a complaint, pursuant to subsection (D)(2)(b)(3);
 - (2) Division staff to investigate a complaint, pursuant to subsection (D)(4)(b)(5); or
 - (3) The board to take disciplinary action regarding the certification of a certificate holder, pursuant to subsection (D)(5)(c)(1)(g).
- e. Standing of Complainant. A complainant does not have standing regarding any proceedings and is not a party to any proceedings. The complainant may, upon request to division staff, receive notice of any public proceeding concerning the complaint or any consent agreements. The complainant submits to the jurisdiction of the supreme court's certification and licensing division for all purposes relating to the proceedings.
- (1) The complainant shall keep division staff informed of any changes of mailing

- address, telephone number or email address during the investigation and any disciplinary proceedings.
- (2) Division staff shall forward any correspondence or notice to the complainant by United States mail to the last address of record with division staff.
 - (3) Division staff shall provide the complainant with the following information:
 - (a) A written acknowledgement of the receipt of the complaint;
 - (b) A copy of the letter sent to the certificate holder requiring a response to the alleged acts of misconduct or violations and the initial response by the certificate holder, within twenty days of receipt of the certificate holder's initial response;
 - (c) Notice, if the complainant has requested notice of any public proceeding concerning the complaint or any consent agreement;
 - (d) Notice of the final disposition of each allegation; and
 - (e) Notice of the dismissal of the complaint within ten days of the determination by the division director, if applicable, pursuant to subsection (H)(2)(b).
 - (4) Failure by division staff to provide the complainant with information as required by this subsection shall not affect the ultimate disposition of any allegations of acts of misconduct or violations by the certificate holder.
 - (5) The complainant may file a request for review by the board of the division director's dismissal of the complaint, within ten days of the date of the notice of dismissal pursuant to subsection (H)(2)(e).
- f. Non-abatement. Unwillingness, failure of the complainant to cooperate with division staff or the board, withdrawal of the complaint or a specific allegation of misconduct or violation contained in the complaint, settlement or compromise between the complainant and the certificate holder, or restitution by the certificate holder shall not abate the processing of any complaint or disciplinary proceeding.
- g. Confidentiality of Complaints. The director, deputy director, division staff, board and court employees shall keep information or documents obtained or generated by the director, deputy director, division staff, board or court employees in the course of an open investigation or received in an initial report of misconduct confidential, except as mandated by court rules or this section.
- (1) Confidential information may also be disclosed during the course of an open investigation:
 - (a) To court staff, the attorney general, county attorney, law enforcement and other regulatory officials;
 - (b) If the director makes a finding the disclosure is in the best interest of the public and the interest is not outweighed by any other interests; or
 - (c) Is not contrary to law.
 - (2) Once a finding of probable cause has been entered all information and documents are open for public inspection unless:
 - (a) Confidential by law or public record rules adopted by the supreme court; or
 - (b) If the deputy director, as probable cause evaluator, determines further investigation is necessary, the information or documents and those

compiled in the further investigation shall remain confidential until probable cause is determined.

- (3) Complaints dismissed by the division director, pursuant to subsection (H)(2)(b) for lack of jurisdiction or clear insufficiency are confidential and not a matter of public record for inspection.
 - (4) Complaints dismissed by the board, pursuant to subsection (H)(24)(a)(3) are a matter of public record for inspection.
- h. Investigative Subpoenas. Upon the recommendation of division staff and a demonstration of good cause, the division director, pursuant to subsection (D)(4)(a)(1), may issue an investigative subpoena to any person or entity:
- (1) For the purpose of securing documents or information from any person or entity, if the documents or information are related to a pending investigation of alleged acts of misconduct or violations regarding statutes, court rules, this section or the applicable section of the ACJA.
 - (2) Subpoenas issued by the division director shall be issued and served in the same manner as provided by the Arizona Rules of Civil Procedure. An employee of the court or any other person as designated by the Arizona Rules of Civil Procedure may serve the subpoena.
- i. Processing Time Frames. Division staff shall:
- (1) Prepare any complaint the division director has dismissed pursuant to subsections (H)(2)(b) and (c) and forward the complaint to the board for review, pursuant to subsection (H)(2)(d), at the next regularly scheduled board meeting.
 - (2) Prepare and forward to the board for review at the next regularly scheduled board meeting, any investigated complaint the deputy director has reviewed and entered a finding regarding probable cause, pursuant to subsection (H)(5)(c).
 - (3) Prepare the documents for informal discipline no later than 30 days following the order of the board, pursuant to subsections (H)(7)(b) and (H)(25), unless the board extends the time for good cause.
 - (4) Prepare the documents for formal discipline no later than 30 days following the order of the board pursuant to subsections (H)(9)(b) and (H)(25), unless the board extends the time for good cause.
 - (5) File the formal statement of charges with the disciplinary clerk and arrange for service no later than 30 days following the order of the board, pursuant to subsection (H)(10), unless the board extends the time for good cause.
 - (6) Serve the board's order of emergency summary suspension and expedited hearing immediately on the certificate holder, pursuant to subsection (H)(9)(d)(2).
 - (7) Except as provided in subsections (H)(1)(i)(6) and (8), deposit in the United States mail addressed to the last known address on file with division staff, written notice of the board's final decision and order, regarding a complaint matter, to the certificate holder and complainant within ten days after the board's decision, pursuant to subsection (H)(26)(b) and (c). Notice by mail is complete upon deposit in the United States mail.
 - (8) Mail the board's final order of suspension or revocation of the certificate,

- pursuant to subsection (H)(26)(b) to the certificate holder, by certified mail return receipt requested, within two days, after the board's decision, addressed to the last known address on file with division staff; and
- (9) Process complaints timely, with the goal of processing 98 percent of all complaints within 22 months from date of receipt to final decision by the board.

2. Initial Screening of a Complaint. Upon receipt of a complaint:

a. Division staff shall:

- (1) Consider if a complaint:
- (a) Falls outside the supreme court's jurisdiction;
 - (b) Does not provide the name of a certificate holder;
 - (c) Does not contain sufficient information to permit an investigation;
 - (d) Does not provide specific allegations of acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA;
 - (e) Contains allegations of acts of misconduct or violations, that if true, would not constitute a violation of the statutes, court rule, this section or the applicable section of the ACJA, the certificate holder is required to comply with;
 - (f) Does not provide the name of the complainant; or
 - (g) Does warrant further investigation and evaluation.
- (2) Recommend the division director dismiss the complaint if the complaint:
- (a) Falls outside the jurisdiction of the supreme court, court rules, this section, the applicable section of the ACJA, or the laws applicable to the certificate holder;
 - (b) Does not provide the name of a certificate holder;
 - (c) Does not contain sufficient information to permit an investigation;
 - (d) Does not provide specific allegations of acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA;
 - (e) Contains allegations of acts of misconduct or violations that if true, would not constitute a violation of the statutes, court rules, this section or the applicable section the certificate holder is required to comply with; or
 - (f) Does not provide the name of the complainant.
- (3) Report all complaints dismissed by the division director to the board at the next regularly scheduled board meeting following the determination by the division director; and
- (4) Provide written notice to the complainant and the certificate holder of the division director's decision to dismiss the complaint for the reasons in subsection (H)(2)(b) and (c), within ten days of the division director's decision.

b. The division director may:

- (1) Direct division staff to return an incomplete complaint to the complainant for additional information;
- (2) Dismiss a complaint, pursuant to subsection (D)(4)(a)(2), with or without

- prejudice, if the complaint falls outside the jurisdiction of the supreme court, the statutes, court rules, this section or the applicable section of the ACJA;
- (3) Dismiss a complaint, pursuant to subsection (D)(4)(a)(3), with or without prejudice, if the complaint meets any of the criteria of subsection (H)(2)(a)(2)(b) through (f); or
 - (4) Refer the complaint to another state agency or entity with jurisdiction, if appropriate, pursuant to subsection (D)(4)(a)(4).
- c. The division director shall dismiss the complaint, if the complainant does not supply documents or other information to remedy an insufficient complaint or demonstrate the alleged acts of misconduct or violations are within the certificate holder's responsibilities as required by statutes, court rules, this section or the applicable section of ACJA.
 - d. The board shall review, pursuant to subsection (D)(5)(c)(1)(e), the division director's dismissal of a complaint and do one of the following:
 - (1) Affirm the division director's dismissal; or
 - (2) Request additional investigation of the dismissed complaint; pursuant to subsection (D)(5)(c)(2)(c).
 - e. The complainant may request the board review the division director's dismissal of the complaint pursuant to subsection (H)(2)(b) or (c) by submitting a written request for review, specifying the requested reasons for the board's review. The complainant shall submit the request for review to division staff within ten days of the written notice of the division director's dismissal of the complaint.
3. Investigation. Division staff shall investigate the complaint, after completion of the initial screening of the complaint and the determination a complaint is within the jurisdiction of the supreme court and warrants further investigation pursuant to subsection (H)(2)(a)(1)(g).
- a. Preliminary Investigation. Division staff shall conduct an investigation of all complaints not dismissed by the division director to determine if a certificate holder has violated statutes, court rules, this section, or the applicable section of the ACJA; or for the purpose of securing information useful in the lawful administration of the law, this section, or the applicable sections of the ACJA.
 - b. Notification to Certificate Holder of Complaint. Division staff shall send the complaint to the certificate holder within fifteen days of receiving the complaint or the date the director initiates a complaint pursuant to subsections (D)(2)(b)(3) and (H)(1)(b)(4)(b).
 - c. Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to

the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

- (1) If the certificate holder is unable to respond to a complaint within the time frame established by subsection (H)(3)(c), the certificate holder may submit a written request to the division director for an extension of time to respond. The request for an extension of time to respond shall demonstrate good cause exists for an extension and shall provide a proposed date for fulfillment of the response requirement. The certificate holder shall file the written request for an extension of time to respond to the complaint, no later than five days prior to the date the response is due.
 - (2) The division director shall determine if good cause exists for an extension. Division staff shall notify the certificate holder of the division director's decision on the request for an extension of time for providing a written response, within five days of the request for extension from the certificate holder.
4. Preparation of Investigation Summary. Upon completion of the investigation, division staff shall prepare a written investigation summary for review by the probable cause evaluator. The investigation summary shall include an analysis of the allegations of misconduct and violations and a recommendation as to whether probable cause exists demonstrating the certificate holder committed any of the alleged acts of misconduct or violations.
5. Probable Cause Review. Pursuant to subsection (H)(4) division staff shall forward the investigation summary to the probable cause evaluator for review and determination as to whether probable cause exists misconduct or violations occurred and are demonstrated in the investigation summary.
 - a. The deputy director, serving in the capacity of probable cause evaluator pursuant to subsection (D)(3)(a), shall review the written investigation summary of the allegations of acts of misconduct or violations. The deputy director may agree or disagree with the recommendations contained in the summary and may do one or more of the following:
 - (1) Direct division staff to investigate further;
 - (2) Determine probable cause does not exist demonstrating the certificate holder has committed any acts of misconduct or violations of the statutes, court rules, this section, or the applicable section of the ACJA and enter a written finding to that effect; or
 - (3) Determine probable cause exists demonstrating the certificate holder has committed one or more acts of misconduct or violations of the statutes, court rules, this section, or the applicable section of the ACJA and enter a written finding to that effect.
 - b. If the probable cause evaluator directs division staff to investigate the complaint further, pursuant to subsection (H)(5)(a)(1), division staff shall do so immediately.
 - c. Upon review of the finding by the probable cause evaluator, pursuant to subsection (H)(5)(a)(2) and (3), division staff shall forward to the board, pursuant to subsection (H)(1)(i)(2), the investigation summary, finding by the

probable cause evaluator and a written recommendation by the division director for the appropriate disposition of the complaint. The written recommendation by the division director shall include any sanctions if applicable, pursuant to subsections (H)(7), (H)(9), (H)(24)(a)(6) and (H)(24)(b). The board shall review these documents at the next regularly scheduled board meeting and do one of the following:

- (1) Determine the certificate holder did not commit any acts of misconduct or violations and dismiss the complaint pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(3);
 - (2) Determine the allegations of acts of misconduct or violations do not warrant discipline pursuant to subsection (D)(5)(c)(1)(g), but the certificate holder's actions need modification or elimination and send an advisory letter to the certificate holder pursuant to subsections (H)(24)(a)(4) and (H)(24)(b)(1);
 - (3) Determine the allegations of acts of misconduct or violations may be resolved through informal discipline proceedings pursuant to subsection (H)(7);
 - (4) Determine the acts of misconduct or violations may be resolved through a formal interview, pursuant to subsection (H)(8);
 - (5) Determine the acts of misconduct or violations may be resolved through a formal discipline proceeding, pursuant to subsection (H)(9); or
 - (6) Determine the acts of misconduct or violations pose harm or a risk to the public health, safety or welfare and require resolution through an emergency summary suspension, pursuant to subsection (H)(9)(d). An emergency summary suspension is a formal discipline proceeding.
6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one of more of the following:
- a. Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;
 - b. Failed to comply with or complete a corrective action plan resulting from an audit or course monitoring;
 - c. Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request;
 - d. Aided or assisted another person or business entity to provide services requiring certification if the other person or entity does not hold the required certification;
 - e. Conviction of a criminal offense while certified by final judgment of a felony relevant to certification;
 - f. Failed to provide information regarding a criminal conviction;
 - g. Exhibited gross negligence;

- h. Exhibited incompetence in the performance of duties;
- i. Evaded service of a subpoena or notice of the director, division director or board;
- j. The existence of any cause for which original certification or renewal of certification could have been denied pursuant to subsections (E)(2)(c) or (G)(4)(c) and the applicable section of the ACJA;
- k. Engaged in unprofessional conduct, including:
 - (1) Assisted an applicant or certificate holder in the use of deception, dishonesty or fraud to secure an initial certificate or renewal of a certificate;
 - (2) Failed to comply with any court order, board order or other regulatory agency order relevant to the profession or occupation;
 - (3) Failed to comply with any federal, state or local law or rule governing the practice of the profession or occupation;
 - (4) Failed to comply with any terms of a consent agreement, restriction of a certificate or corrective action plan;
 - (5) Failed to retain client or customer records for a period of three years unless law or rule allows for a different retention period;
 - (6) Failed to practice competently by use of unsafe or unacceptable practices;
 - (7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;
 - (8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;
 - (9) Used advertising intended to or having a tendency to deceive the public;
 - (10) Used a supreme court certification to deceive the public in level of skills or abilities;
 - (11) Willfully made or filed false reports or records in the practice of the profession or occupation;
 - (12) Failed to file required reports, records or pleadings in the practice of the profession or occupation;
 - (13) Delegated professional or occupational responsibilities or duties to an employee or person who the certificate holder knows does not possess the necessary level of education, experience, skills or credentials to perform the duties of the profession or occupation unless authorized to do so by the applicable section of the ACJA;
 - (14) Performed the responsibilities or duties of the profession or occupation when medically or psychologically unfit to do so;
 - (15) Engaged in habitual substance abuse;
 - (16) Engaged in undue influence over a client or customer to the benefit, financial or otherwise, of the certificate holder or a third party; or
 - (17) Violated any statutory, court rule, or the applicable ACJA section

regarding a confidentiality requirement.

7. Informal Disciplinary Proceedings.

- a. Commencement. Following entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsections (H)(5)(a) and (c), the board may commence informal disciplinary proceedings if the board finds the complaint is appropriate for resolution through informal disciplinary proceedings.
- b. Decision of the Board. The board may resolve the complaint through informal disciplinary proceedings and impose an informal sanction pursuant to subsection (H)(24)(a)(6)(a) or may take other action pursuant to this section. The board, pursuant to subsection (D)(5)(c)(1)(f)(iv), shall order the preparation of documents necessary to commence informal disciplinary proceedings. The board may make procedural determinations to consolidate or sever any informal discipline matter pursuant to subsection (D)(5)(c)(2)(e). The provisions of subsections (H)(24) and (H)(25) apply to the decision and order of the board. Informal disciplinary proceedings:
 - (1) Do not provide the certificate holder the right to a hearing;
 - (2) May result in the informal sanction of a letter of concern;
 - (3) Are not subject to special action proceedings pursuant to subsection (H)(27); and
 - (4) Are not confidential.

8. Request for Formal Interview. Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsections (H)(5)(a) and (c), and a board determination formal discipline is warranted, but before the filing of the formal statement of charges, the board may request a formal interview with a certificate holder, pursuant to subsection (D)(5)(c)(2)(d). The request for a formal interview is to determine if the facts of the complaint may be capable of resolution outside of a formal disciplinary process by consent agreement or other negotiated settlement, pursuant to subsection (H)(24)(a)(6)(c) between the board and certificate holder. The board shall hold the formal interview at the next regularly scheduled board meeting, unless the board determines good cause to expedite the interview.

- a. Once the board determines a formal interview is necessary, division staff shall provide the certificate holder a copy of the investigation summary, finding by the probable cause evaluator and the written recommendation by the division director for the appropriate disposition of the complaint. Division staff shall also provide written notice of the day and time of the scheduled interview. If the certificate holder declines the board's request for an interview, the certificate holder does not forfeit the right to request a hearing pursuant to subsection (H)(12).
- b. If the certificate holder declines the board's request for a formal interview, or if the division director's recommended sanctions for future found violations include a suspension of more than twelve months or revocation, the board shall order the preparation of documents necessary for a filing of a formal

statement of charges pursuant to subsections (D)(5)(c)(1)(f)(iv) and (H)(9)(b). The board may consolidate or sever any discipline matter pursuant to subsection (D)(5)(c)(2)(e).

- c. Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder merits a suspension of more than twelve months or revocation of the certificate, the board shall order the preparation of documents for filing a formal statement of charges, pursuant to subsections D(5)(c)(1)(f)(iv) and H(9)(b).
- d. Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder demonstrates the public's health, safety, or welfare requires emergency action, the board shall issue an emergency summary suspension order pursuant to subsections (D)(5)(c)(1)(f)(v) and H(9)(d).
- e. Upon completion of the formal interview, if the board determines the evidence obtained during the investigation or provided by the certificate holder does not merit a suspension of more than twelve months, revocation, or an emergency summary suspension, the board may take one or more of the following actions:
 - (1) Determine the certificate holder did not commit any acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA and dismiss the complaint pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(3);
 - (2) Determine the allegations of acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA, do not warrant discipline, but the certificate holder's actions need modification or elimination and send an advisory letter to the certificate holder, pursuant to subsections (D)(5)(c)(1)(g), (H)(24)(a)(4) and (H)(24)(b)(1);
 - (3) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through informal discipline proceedings pursuant to subsections (D)(5)(c)(1)(g) and (H)(7);
 - (4) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through a consent agreement as part of formal disciplinary proceedings, pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(6)(c);
or
 - (5) Determine the certificate holder committed one of more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA and the complaint is appropriate for resolution only through formal discipline proceedings, pursuant to subsection (D)(5)(c)(1)(g) and (H)(9).
- f. If the board, after the formal interview is concluded, determines the acts of misconduct or violations warrant an emergency summary suspension, the board shall make an order for an expedited hearing, pursuant to subsections

(H)(9)(d)(1) and (H)(12)(d).

9. Formal Disciplinary Proceedings.

- a. Commencement. Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(c), the board may commence formal disciplinary proceedings.
- b. Decision of the Board. On review of the recommendation of the division director, the board may resolve the complaint through formal disciplinary proceedings and impose informal and formal sanctions pursuant to subsection (H)(24)(a) and (b) or may take other actions pursuant to this section. The board, pursuant to subsection (D)(5)(c)(1)(f)(iv) shall order the preparation of the documents necessary to commence formal disciplinary proceedings. The board may make procedural determinations to consolidate or sever any formal disciplinary matter pursuant to (D)(5)(c)(2)(e). The provisions of subsections (H)(24) and (H)(25) apply to the decision and order of the board. Formal disciplinary proceedings:
 - (1) Provide the certificate holder the right to a hearing, pursuant to subsection (H)(12)(c);
 - (2) May result in informal and formal sanctions, including an emergency summary suspension pursuant to subsections (H)(24)(5) and (6);
 - (3) May result in costs and civil penalties pursuant to subsections (H)(24)(6)(j) and (k);
 - (4) Are subject to special action proceedings pursuant to subsection (H)(27); and
 - (5) Are not confidential.
- c. Notice to Certificate Holder. Upon commencement of formal disciplinary proceedings by a board order, division staff shall notify the certificate holder of the board's order and provide the certificate holder with a copy of the investigation summary, the division director's recommendations and the deputy director's finding of probable cause.
- d. Emergency Summary Suspension.
 - (1) Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(c), if the board finds the public health, safety or welfare is at risk and requires emergency action, the board shall order an immediate emergency summary suspension of a certificate and set a date for an expedited hearing while formal disciplinary proceedings are pending.
 - (2) Division staff shall ensure the order of emergency summary suspension is immediately served on the certificate holder with the notice of the emergency summary suspension and the expedited hearing as ordered by the board, pursuant to this subsection and subsection (H)(12)(d).
 - (3) The hearing shall be held within ten days of the board's order of summary suspension.

- (4) The hearing officer shall only grant an extension of the ten day time period for holding the expedited hearing under extraordinary circumstances at the request of either party. The certificate holder may consent to a longer time period for the extension and the reasons for the extension shall be part of the record.
 - (5) Division staff shall notify all applicable courts including superior court presiding judges, clerks of the superior court and superior court administrators of the emergency summary suspension.
10. Notice of Formal Statement of Charges and Proceedings; and Right to Hearing. Upon motion and order of the board, division staff shall:
 - a. Prepare the formal statement of charges pursuant to subsection (H)(1)(i)(4) and include in the statement all of the following:
 - (1) A short and plain statement of the allegations;
 - (2) A reference to statutes, court rules, this section and the applicable ACJA section;
 - (3) A statement indicating the certificate holder has the right to a hearing, pursuant to subsection (H)(12)(c);
 - (4) A statement indicating the request for hearing shall be in writing and made within fifteen days of receipt of the notice, pursuant to subsection (H)(13); and
 - (5) A statement of the requirements for filing an answer pursuant to subsections (H)(11) and (17).
 - b. Present the formal statement of charges to the board chair or designee for review and signature;
 - c. File the signed formal statement of charges with the disciplinary clerk;
 - d. Arrange for service of the notice of formal statement of charges to the certificate holder pursuant to Rule 4, Rules of Civil Procedure; and
 - e. Amendments to the formal statement of charges are permissible upon motion and order of the board.
11. Answer to Formal Statement of Charges or Default. The certificate holder shall file an answer to the formal statement of charges within fifteen days after the date the statement is served, unless otherwise ordered by the board for good cause. Answers shall comply with Rule 8, Rules of Civil Procedure. Any defenses not raised in the answer are waived. If a certificate holder fails to file an answer within the time provided, the certificate holder is in default and the factual allegations in the formal statement of charges are deemed admitted. The board may enter a finding or findings against the certificate holder of one or more of the assertions contained in the notice.
12. Right to Hearing.
 - a. Except as provided in subsection (E)(1)(f)(2)(d)(iii), an applicant denied initial or renewal certification pursuant to subsections (E)(2)(c) or (G)(4) may request

- a hearing.
 - b. Pursuant to subsection (E)(9)(b), an applicant denied reinstatement of certification may request a hearing, except if the applicant fails to provide required information within the requested time frame.
 - c. A certificate holder served with a formal statement of charges pursuant to subsection (H)(9) may request a hearing.
 - d. A certificate holder issued an emergency summary suspension pursuant to subsection (H)(9)(d)(1) shall have an expedited hearing.
13. Request for Hearing. The applicant or certificate holder shall request the hearing within fifteen days of the notice of denial of initial or renewal certification; or the notice of a formal statement of charges. The request shall include the ACJA subsection entitling a person or business to a hearing, the factual basis supporting the request for hearing and the relief demanded.
14. Selection of Hearing Officer for Certification or Discipline Hearing. Upon written request by an applicant or certificate holder entitled to a hearing pursuant to subsection (H)(12), the disciplinary clerk shall select a hearing officer.
- a. The disciplinary clerk shall select a hearing officer from the list of hearing officers appointed by the supreme court. The hearing officer shall have the following qualifications:
 - (1) Admitted to the practice of law in Arizona; and
 - (a) An active member in good standing for at least seven years with the State Bar of Arizona; or
 - (b) An active or retired judicial officer.
 - (2) Have knowledge in the procedure for conducting administrative hearings regarding the denial of initial or renewal of certification or alleged acts of misconduct or violations by a certificate holder pursuant to this section or the applicable ACJA section.
 - b. The disciplinary clerk may request the presiding judge of the superior court in the county where the alleged acts of misconduct or violations occurred to supply a hearing room and any other necessary resources.
15. Time Line for Hearing. The disciplinary clerk or hearing officer shall:
- a. Ensure the hearing is held within 60 days of receipt of the request for hearing. The hearing officer may continue the hearing date upon request or stipulation of the parties, or upon the hearing officer's own motion, for good cause shown. The hearing officer shall grant continuances no more than 30 days at a time and may not extend the hearing on the merits beyond 120 days from the filing of the formal statement of charges.
 - b. If the request to continue the hearing is filed by division staff, the hearing officer shall ensure the hearing is held as soon as practical at the discretion of the hearing officer but no less than fifteen days after notice, as required by

subsection (H)(16).

16. Notice of Hearing. The disciplinary clerk shall prepare and give notice of the hearing to the applicant or certificate holder and division staff, at least fifteen days prior to the date set for hearing.

a. The notice shall include the following information:

- (1) A statement of the legal authority and jurisdiction for conduct of the hearing;
- (2) A statement of the date, time, place and nature of the hearing; and
- (3) A reference to the particular sections of the statutes, rules and ACJA sections involved.

b. The disciplinary clerk shall accomplish service of the notice of hearing by United States mail to the last address of record on file with division staff. Service is accomplished in accordance with Rule 5, Rules of Civil Procedure by deposit in the United States mail.

c. If an attorney represents an applicant, certificate holder or division staff, the disciplinary clerk shall make service to the attorney of record.

17. Filings of Pleadings, Motions and Other Documents.

a. The applicant or certificate holder and division staff shall file all pleadings, motions or other documents with the disciplinary clerk at least fifteen days prior to the scheduled hearing date, unless otherwise ordered by the hearing officer.

b. The applicant or certificate holder and division staff shall file responses to all pleadings, motions, or other documents with the disciplinary clerk within ten days of the filing of the pleading, motion, or other document.

c. The party filing the pleading, motion, or other document may reply within five days of the filing of the response to the motion.

d. Copies of all filings shall be delivered to the disciplinary clerk, the hearing officer and all parties to the proceeding.

18. Discovery.

a. There is no discovery, except as provided in this section, unless mutually agreed to by the parties or ordered by the hearing officer.

b. The hearing officer, upon written request, shall order a party to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing, provided the evidence is not privileged.

c. Upon the hearing officer's own motion or request by a party, the hearing

officer shall order the disclosure of documentary evidence intended for use at the hearing provided the evidence is not privileged. The hearing officer shall order the disclosure at least ten days prior to the hearing.

- d. A hearing officer shall review and rule upon any claims of privilege challenged by a party with respect to subsections (H)(18)(b) and (c).
- e. Within fifteen days of receipt of the notice of hearing, the parties shall exchange a list of witnesses containing the names, addresses and telephone numbers of all persons known to have knowledge of the relevant facts. The list of witnesses shall designate those persons the parties intend to call at the hearing and summarize the anticipated testimony of each witness.
- f. Parties may submit a motion to the hearing officer to take depositions of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing, for use as evidence at the hearing. The hearing officer may order the deposition of any other witness upon motion and for good cause shown. In either circumstance, the requesting party shall file a written motion for deposition with the hearing officer within ten days of the filing of the list of witnesses. The requesting party shall provide copies to all parties, setting forth the name and address of the witness, subject matter of the deposition, documents, if any, the parties are seeking for production, time and place proposed for the deposition and justification for the deposition.
- g. Parties shall file responses to requests for depositions, including motions to quash, within five days after the filing of the request for deposition. The hearing officer shall enter a final order regarding any motions for depositions.
- h. If a deposition is permitted and ordered by the hearing officer, the hearing officer shall issue a subpoena and written order. The subpoena and order shall identify the person to be deposed, scope of testimony to be taken, documents, if any, to be produced and the time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order with service on all parties five days before the time fixed for taking the deposition unless, for good cause shown, the time is shortened by the hearing officer.

19. Subpoena.

- a. For the purpose of the hearing, a hearing officer may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the subject of any hearing.
- b. Subpoenas shall be issued by a hearing officer and served in the same manner as provided by Rule 45, Rules of Civil Procedure. An employee of the court or any other person as provided by Rule 45, Rules of Civil Procedure may serve the subpoena.
- c. If a person fails to obey a subpoena served in accordance with the provisions of this section, the board or hearing officer may forward a report of the

disobedience, together with a copy of the subpoena and proof of service, to the superior court and request the superior court judge issue an order requiring the appearance by a person or the production of documents, or both. The superior court may treat the failure to obey the subpoena as contempt of court and may impose penalties as though the person had disobeyed a subpoena issued by the court.

20. Prehearing Conference. The hearing officer may order and conduct a pre-hearing conference at the request of any party or on the hearing officer's own initiative. The purpose of the conference is to consider imposing limitations to promote simplicity in procedures, fairness in administration, elimination of unnecessary expense and protection of the public while preserving the rights of the certificate holder. The hearing officer may take any of the following actions:

- a. Establish a hearing schedule to ensure early and continuing control so the matter shall not be protracted because of lack of management;
- b. Dispose of outstanding procedural matters;
- c. Narrow the issues for adjudication;
- d. Dispose of preliminary legal issues, including ruling on pre-hearing motions;
- e. Obtain stipulations from the parties to the admission of evidence, facts and legal conclusions not contested;
- f. Identify witnesses and coordinate testimony; and
- g. Consider any other matters to aid in the expeditious conduct of the hearing.

21. Procedure at Hearings.

- a. Hearing Officer. The hearing officer shall preside over the hearing and decide all requests for a continuance, motions, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, recess or adjourn the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.
- b. Rights of Parties and Other Persons at a Hearing. At a hearing:
 - (1) A party is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the conduct of the proceeding.
 - (2) An applicant or certificate holder may represent themselves or appear through counsel. An attorney who intends to appear on behalf of a party shall promptly file a notice of appearance with the disciplinary clerk providing the name, address and telephone number of the party represented and the name, address and telephone number of the attorney. A corporate officer or principal may represent a business entity in any proceeding under this section, as permissible pursuant to Arizona Supreme

Court Rule 31.

- (3) All persons appearing before a hearing officer in any proceeding shall conform to the conduct expected in the superior court.

c. Conduct of Hearing.

- (1) All hearings are open to the public and shall conform to the provisions of ACJA § 1-202: Public Meetings. The hearing officer may close the hearing to the public, pursuant to ACJA § 1-202(C)(5).
- (2) The hearing officer may conduct a hearing in an informal manner and without adherence to the rules of pleading or evidence. The hearing officer may question witnesses and shall require any evidence supporting a decision is substantial, reliable and probative and shall exclude irrelevant, immaterial or unduly repetitious evidence. There is no right to a jury.
- (3) The hearing officer shall require all testimony taken is under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation. The hearing officer may administer oaths and affirmations.
- (4) In all formal disciplinary matters brought as the result of an order by the board, evidence in support of the formal statement of disciplinary charges is presented first and carries the burden of proof by a preponderance of the evidence. In matters brought at the request of any other person or entity, including requests for hearing on the denial of initial or renewal of certification, the person or entity seeking the hearing shall present first and carries the burden of proof, by a preponderance of the evidence.

d. Record of Hearing.

- (1) The hearing officer shall ensure the oral proceedings, or any part of the oral proceedings, are recorded. Upon the request of any party to the proceedings and payment of any costs, the record of the proceedings shall be transcribed.
- (2) A certified reporter shall make a full transcript of the proceedings if requested by a party within five days prior to a hearing and upon order of the hearing officer. The requesting party shall pay the cost of the transcript. The hearing officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the record is part of the court's record of the hearing and any other party with a direct interest shall receive a copy of the record, at the request and expense of the requesting party.

22. Recommendation Report of Hearing Officer.

- a. The hearing officer shall, within 30 days of the closing of the record of a hearing, prepare a written recommendation report and file the report with the disciplinary clerk. The recommendation report shall include findings of fact, based on a preponderance of the evidence and conclusions of law, separately stated.
- b. The hearing officer shall take testimony and receive evidence regarding alleged acts of misconduct or violations and possible sanctions. If the hearing officer

recommends the board enter a finding the certificate holder committed one or more acts of misconduct or violations, the hearing officer shall include in the recommendation report, in a separately stated section, an analysis of mitigating and aggravating factors and recommended imposition of permissible sanctions pursuant to subsection (H)(24). The hearing officer shall base the recommendations exclusively on the matters officially noticed and the evidence presented.

(1) Mitigating factors may include but are not limited to the following:

- (a) The absence of a prior disciplinary record;
- (b) The absence of a dishonest motive;
- (c) The absence of a selfish motive;
- (d) Personal or emotional problems;
- (e) A timely good faith effort to make restitution or to rectify consequences of misconduct;
- (f) Full and free disclosure to the division staff, the board or the hearing officer;
- (g) A cooperative attitude toward any proceedings;
- (h) Inexperience in the practice of the profession or occupation;
- (i) Character or reputation;
- (j) Physical or mental disability;
- (k) Physical or mental impairment;
- (l) Delays in the disciplinary proceedings;
- (m) Interim rehabilitation;
- (n) Imposition of other penalties or sanctions;
- (o) Remorse; or
- (p) The remoteness of prior offenses.

(2) Aggravating factors may include but are not limited to the following:

- (a) A prior disciplinary record;
- (b) A dishonest motive;
- (c) A selfish motive;
- (d) Multiple offenses;
- (e) Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with this section, the applicable section of ACJA, court rules or orders of the hearing officer;
- (f) Submission of false evidence, false statements or other deceptive practices during the discipline process;
- (g) Refusal to acknowledge wrongful nature of the conduct;
- (h) Vulnerability of the victim;
- (i) Substantial experience in the profession or occupation; or
- (j) Indifference to making restitution.

- c. The disciplinary clerk shall distribute the hearing officer recommendation report to all parties and the board by United States mail to the last address on file with the division staff. Distribution is accomplished in accordance with Rule 5, Rules of Civil Procedure by deposit in the United States mail.
- d. The board may adopt or modify the hearing officer's recommendation report in whole or in part.
- e. The board may remand the matter to the hearing officer in whole or in part,

designating the issues remanded. The board shall provide the hearing officer with an order identifying the issues remanded.

23. Rehearing. A party to the hearing may request a rehearing of the matters involved in the hearing. The requesting party shall file the written request with the hearing officer and the disciplinary clerk within fifteen days after the disciplinary clerk has distributed the hearing officer's recommendation report to the parties pursuant to subsection (H)(22)(c). The requesting party shall base the request for rehearing on one or more of the grounds listed in Rule 59, Rules of Civil Procedure. The hearing officer shall allow any party served with a request for rehearing to file a response within ten days of service. The hearing officer may grant a rehearing of the matters involved in the hearing and shall make the decision to grant or deny the request within ten days of the date the response for rehearing is filed.

24. Possible Actions for Resolution of a Complaint.

a. Upon completion of an investigation concerning alleged acts of misconduct or violations by a certificate holder, which may or may not include a formal interview, informal or formal disciplinary proceedings, or a hearing, the board shall do one or more of the following:

- (1) Request division staff to conduct further investigation;
- (2) Refer the complaint to another entity with jurisdiction;
- (3) Determine no violation exists and dismiss the complaint with or without prejudice;
- (4) Determine no acts of misconduct or violation occurred and no discipline is warranted; however, the certificate holder's actions need modification or elimination and issue an advisory letter pursuant to subsection (D)(5)(c)(1)(g);
- (5) Enter a finding the certificate holder has violated any of the provisions of the statutes, court rules, this section, or the applicable ACJA specific sections or subsection (H)(6) and order an emergency summary suspension, pursuant to subsection (H)(9)(d);
- (6) Enter a finding the certificate holder has violated any of the provisions of the statutes, court rules, this section, the applicable ACJA sections or subsection (H)(6) and issue an order imposing any or a combination of the following informal or formal disciplinary sanctions:
 - (a) Issue a letter of concern;
 - (b) Issue a censure;
 - (c) Resolve any found acts of misconduct or violations by consent order or other negotiated settlement;
 - (d) Place specific restrictions on a certificate;
 - (e) Place the certificate holder on probation for a set period of time under specified conditions;
 - (f) Mandate additional training for the certificate holder;
 - (g) Issue a cease and desist order pursuant to subsection (E)(6);
 - (h) Order suspension of a certificate for a set period of time with specific conditions for reinstatement;
 - (i) Order revocation of a certificate with specific conditions for reinstatement;

- (j) Assess costs associated with the investigation and disciplinary proceedings; or
 - (k) Impose civil penalties associated with the investigation and disciplinary proceedings.
 - b. The following provisions apply to the actions specified in subsection (H)(24)(a):
 - (1) An advisory letter is not a discipline sanction and is confidential. While the conduct does not warrant any disciplinary action, the board believes the certificate holder should modify or eliminate certain practices and continuation of the activities leading to the documentation regarding the conduct being submitted to the board may result in future board action against the certificate holder. A certificate holder may file a response with the board no later than fifteen days after the date of the advisory letter. The certificate holder's response is confidential and division staff shall file the response in the complaint file.
 - (2) An informal disciplinary proceeding may result in a letter of concern but may not include a censure, restrictions on a certificate, probation, mandated additional training, suspension or revocation of the certificate, or imposition of civil penalties or costs. A letter of concern is a written informal discipline sanction and is not confidential or appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.
 - (3) The board may impose informal discipline in combination with formal discipline.
25. Decisions and Orders. The board shall make final decisions or orders in writing and shall include findings of fact and conclusions of law, separately stated. The board shall make findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed and consider mitigating or aggravating factors pursuant to subsections (H)(22)(b)(1) and (2).
26. Notice of Board's Final Decision. Upon final order of the board regarding a certification or complaint matter, division staff shall provide written notice of the board's final decision and order:
- a. Regarding an initial or renewal certification matter, to the applicant or certificate holder within ten days, by deposit in the United States mail addressed to the last known address on file with division staff. Notice by mail is complete upon deposit in the United States mail.
 - b. Regarding suspension or revocation of certification to the certificate holder by certified mail, return receipt requested, within two days, addressed to the last known address on file with division staff pursuant to subsection (H)(1)(i)(8). Division staff shall ensure the order of emergency summary suspension is immediately served on the certificate holder pursuant to subsection (H)(9)(d)(2). Division staff shall send any other disciplinary order by the board, not involving suspension or revocation of certification, to the certificate

holder within ten days by deposit in the United States mail addressed to the last known address on file with division staff, pursuant to subsection (H)(1)(i)(7). Notice by mail is complete upon deposit in the United States mail.

- c. Regarding a complaint matter, to the complainant within ten days, pursuant to subsection H(1)(i)(7), by deposit in the United States mail addressed to the last known address on file with division staff. Notice by mail is complete upon deposit in the United States mail.

27. Filing of Special Action. Decisions of the board pursuant to this section and the applicable ACJA sections are final. Parties may seek judicial review through a petition for a special action within 35 days after entry of the board's final order. The petition for special action shall be pursuant to the Arizona Rules of Procedure for Special Actions.

7. Arizona Code of Judicial Administration § 7-208 (A) – Definitions

A. Definitions. In addition to ACJA § 7-201(A), the following definitions apply:

“Board” means the Board of Legal Document Preparers.

“Designated principal” means the individual associated with a certified business entity, on file with the Certification and Licensing Division, who is a certified legal document preparer and is responsible for supervising all certified legal document preparers, trainees and staff working for the business.

“Legal document preparer” means an individual or business entity certified pursuant to this section to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter. An individual or business entity whose assistance consists merely of secretarial or receptionist services is not a legal document preparer.

“Trainee” means a person who would qualify for certification as a legal document preparer but for the lack of required experience, and who is seeking to gain the required experience to qualify as a certified legal document preparer by working under the supervision of a designated principal, on behalf of a certified business entity, to perform authorized services, as set forth in this section.

8. Arizona Code of Judicial Administration § 7-208 (C) – Purpose

C. Purpose. The supreme court has inherent regulatory power over all persons providing legal services to the public, regardless of whether they are lawyers or nonlawyers. The court recognizes, however, that the need to protect the public from possible harm caused by nonlawyers providing legal services must be balanced against the public's need for access to legal services. Accordingly, this section is intended to:

1. Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable

statutes, ACJA §§ 7-201 and -208, and Arizona court rules; and

2. Result in the effective administration of the legal document preparer program.

9. Arizona Code of Judicial Administration § 7-208 (D) – Administration

D. Administration.

1. **Role and Responsibilities of the Supreme Court.** In addition to the requirements of ACJA § 7-201(D), the supreme court shall review recommendations from the board for certification or renewal of certification of applicants subject to the provisions of subsection (E)(3)(c) or (G)(3) and make a final determination on the certification or renewal of certification of these applicants.
2. **Establishment and Administration of Fund.** The supreme court shall establish a legal document preparer fund consisting of monies received for certification fees, costs and civil penalties. The supreme court shall administer the legal document preparer fund and shall receive and expend monies from the fund.
3. **Role and Responsibilities of the Division Staff.** These responsibilities are contained in ACJA § 7-201(D).
4. **Board of Legal Document Preparers.** In addition to the requirements of ACJA § 7-201(D) the following requirements apply:
 - a. The Board of Legal Document Preparers is established, comprised of the following eleven members:
 - (1) Five certified legal document preparers who have each worked as a legal document preparer for at least five years;
 - (2) One judge or court administrator;
 - (3) One clerk of the superior court or designee;
 - (4) One attorney;
 - (5) Two public members; and
 - (6) One additional member appointed by the chief justice of the supreme court.
 - b. The board shall issue certificates to qualified applicants pursuant to subsections (E) and (G) and shall make recommendations to the supreme court regarding the certification and renewal of certification of applicants subject to the provisions of subsections (E)(3)(c) or (G)(3).

10. Arizona Code of Judicial Administration § 7-208 (E) – Initial Certification

- ### **E. Certification.** In addition to the requirements of ACJA § 7-201(E) the following requirements apply:
1. **Necessity.** A person or qualified business entity shall not represent they are a certified legal document preparer, or are authorized to prepare legal documents, without holding valid certification pursuant to this section.

2. Eligibility for Applying for Individual Standard Certification.
 - a. From and after July 1, 2006, all potential applicants for individual certification, in addition to meeting the requirements set forth in subsection (E)(3)(a), shall meet the examination requirements of this subsection.
 - (1) Potential applicants for standard certification shall successfully pass the examination prior to submitting an application for certification.
 - (2) Upon a potential applicant passing the examination, division staff shall forward notice to the potential applicant of the potential applicant's fulfillment of the examination requirement and provide the potential applicant with an individual standard certification application form.
 - b. Administration of the Examination. In addition to the requirements of ACJA § 7-201(E):
 - (1) The examination for standard individual certification shall consist of a test on legal terminology, client communication, data gathering, document preparation, ethical issues, and professional and administrative responsibilities pertaining to legal document preparation, as identified through a job analysis conducted at the direction of the board. The examination shall be administered in a board approved format and delivery method.
 - (2) Administration of reexaminations. These requirements are contained in ACJA § 7-201(E).
3. Individual Standard Certification.
 - a. Fingerprinting. Pursuant to A.R.S. § 12-102 and ACJA § 7-201(E), an applicant shall furnish fingerprints for a criminal background investigation.
 - b. Eligibility for Individual Certification. Except for applicants subject to the provisions of subsections (E)(3)(c) or (G)(3) the board shall grant a standard individual certificate to an applicant who possesses the following qualifications:
 - (1) A citizen or legal resident of the United States;
 - (2) At least eighteen years of age;
 - (3) Of good moral character;
 - (4) Complies with the laws, court rules, and orders adopted by the supreme court governing legal document preparers in this state; and
 - (5) The applicant has successfully passed the legal document preparer examination.
 - (6) The applicant shall also possess one of the following combinations of education or experience:
 - (a) A high school diploma or a general equivalency diploma evidencing the passing of the general education development test and a minimum of two years of law-related experience in one or a combination of the following situations:
 - (i) Under the supervision of a licensed attorney;
 - (ii) Providing services in preparation of legal documents prior to July 1,

- 2003;
 - (iii) Under the supervision of a certified legal document preparer after July 1, 2003; or
 - (iv) As a court employee;
 - (b) A four-year bachelor of arts or bachelor of science degree from an accredited college or university and a minimum of one year of law-related experience in one or a combination of the following situations:
 - (i) Under the supervision of a licensed attorney;
 - (ii) Providing services in preparation of legal documents prior to July 1, 2003;
 - (iii) Under the supervision of a certified legal document preparer after July 1, 2003; or
 - (iv) As a court employee;
 - (c) A certificate of completion from a paralegal or legal assistant program approved by the American Bar Association;
 - (d) A certificate of completion from a paralegal or legal assistant program that is institutionally accredited but not approved by the American Bar Association, and that requires successful completion of a minimum of 24 semester units, or the equivalent, in legal specialization courses;
 - (e) A certificate of completion from an accredited educational program designed specifically to qualify a person for certification as a legal document preparer under this section;
 - (f) A degree from a law school accredited by the American Bar Association; or
 - (g) A degree from a law school that is institutionally accredited but not approved by the American Bar Association.
- c. Any applicant for certification who has been disbarred by the highest court in any state, and who has not been reinstated, or who has been denied admission to the practice of law in Arizona, is subject to the additional requirements specified in subsection (E)(4).
- d. Eligibility for Business Entity Standard Certification.
- (1) All corporations, limited liability companies, partnerships, and all sole proprietorships that offer authorized legal document preparation services to non-represented parties and employs certified legal document preparers, or supervises trainees pursuant to subsection (F)(5), shall obtain certification as a business entity. The business entity shall execute and submit a principal form designating a certified individual legal document preparer pursuant to this section. The designated principal shall have the duties and responsibilities set forth in subsections (F)(4), (F)(5) and (F)(6). In the event a designated principal is no longer able or willing to serve as the principal, a certified business entity shall immediately designate another certified individual legal document preparer as the new designated principal and within twenty days file an updated designated principal form with the division staff.
 - (2) The owner or officers of a certified legal document preparer business entity are not required to hold individual certification, provided the business entity has a designated principal who holds valid individual certification as a legal document preparer.

- (3) A sole proprietor who does not employ certified legal document preparers or supervise trainees pursuant to subsections (A) and (F)(5), is not required to hold certification as a business entity, provided the sole proprietor holds valid certification as an individual legal document preparer.
 - (4) The board may grant a waiver of the business entity application fee to a corporation, limited liability company, or partnership that essentially operates as a sole proprietorship because it does not employ more than one certified legal document preparer, does not supervise trainees pursuant to subsections (A) and (F)(5), provided:
 - (a) The individual operating the business holds valid certification as an individual legal document preparer; and
 - (b) The business entity has applied for and obtained a business entity certification fee exemption.
 - (5) The board will review each fee exemption request individually.
 - (6) If the board approves a business entity certification fee exemption, the board shall refund the fees submitted with the exempted business entity's application.
 - (7) A person who has been disbarred by the highest court in any state, and who has not been reinstated, may not:
 - (a) retain any ownership interest in a certified legal document preparer business; or
 - (b) provide any legal document preparation or legal services to or on behalf of a certified legal document preparer business, including training and legal research, whether for or without compensation. This prohibition does not apply to a person certified as an individual providing legal document preparation services in compliance with Rule 31, ACJA § 7-201 and this section.
 - (8) A person whose individual application has been denied or whose individual certificate has been revoked by the board may not:
 - (a) retain any ownership interest in a certified legal document preparer business; or
 - (b) provide any legal document preparation or legal services to or on behalf of a certified legal document preparer business, including training and legal research, whether for or without compensation.
- e. Procedures for Business Entity Certification. In addition to the requirements contained in ACJA § 7-201(E), a verified designated principal form and a list of all certified legal document preparers and subsection (F)(5) trainees acting for or on behalf of the business entity shall accompany the application for initial business entity certification.
4. Decision Regarding Certification. In addition to the requirements of ACJA § 7-201(E) the following requirements apply to an applicant for certification who has been disbarred by the highest court in any state, and who has not been reinstated, or who has been denied admission to the practice of law in Arizona.
 - a. The board shall review the application of the applicant during a board meeting. If the board is satisfied the applicant meets the requirements of this section, and by majority vote of the board in public session, recommends certification of the applicant, the board shall forward a written

recommendation for certification, along with the application, to the supreme court for review by the court.

- b. The court may decline review, or it may grant review on its own motion. If the court declines review, the board's recommendation for certification is final and the applicant shall be issued certification. If the court grants review, the court may issue such orders as appropriate for its review, including remanding the matter to the board for further action, ordering transmittal of the applicant's file, or ordering the applicant to provide additional information. If the court is satisfied the applicant meets the requirements of this section and approves the certification, the division staff, upon notice from the court, shall issue a certificate to the applicant in accordance with this section and ACJA § 7-201(E).
- c. The board, or the court when considering applicants subject to the provisions of subsection (E)(3)(c), may refuse to issue a certificate if the board or court finds that any of the following applies:
 - (1) The applicant has been disbarred by the highest court in any state and has not been reinstated; or
 - (2) The applicant has been denied admission to the practice of law in Arizona.
- d. An applicant who is subject to the provisions of subsection (E)(3)(c) and who is denied certification by the board may exercise the right to hearing pursuant to ACJA § 7-201(E)(2)(c)(5). The decision of the court to deny certification to an applicant who is subject to the provisions of subsection (E)(3)(c) is final and the hearing provisions of ACJA § 7-201(E)(2)(c)(5) do not apply.

11. Arizona Code of Judicial Administration § 7-208 (F) - Role and Responsibilities of Certificate Holders

F. Role and Responsibilities of Certificate Holders. In addition to the requirements of ACJA § 7-201(F) the following requirements apply:

1. Authorized Services. A certified legal document preparer is authorized to:
 - a. Prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public in any legal matter when that entity or person is not represented by an attorney;
 - b. Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies;
 - c. Provide general factual information pertaining to legal rights, procedures, or options available to a person in a legal matter when that person is not represented by an attorney;
 - d. Make legal forms and documents available to a person who is not

represented by an attorney; and

- e. File and arrange for service of legal forms and documents for a person in a legal matter when that person is not represented by an attorney.
2. Code of Conduct. Each certified legal document preparer shall adhere to the code of conduct in subsection J.
 3. Identification. Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.
 4. Notification of Changes. In addition to the requirements of ACJA § 7-201(F) the following requirements apply:
 - a. If the status of an individual certificate holder changes from being associated with a business entity, the legal document preparer shall, within 30 days of the change, notify the division staff in writing.
 - b. A designated principal shall notify the division staff in writing within 30 days of the termination of employment when an employee who is a certified legal document preparer or an (F)(5) trainee leaves the employment of the business entity.
 5. Supervision of Trainees.
 - a. If a certified business entity employs a person who would qualify for certification as a legal document preparer but for the lack of required experience, the designated principal may train the employee to perform services authorized by this section until such time as the trainee meets the minimum eligibility requirements for individual certification pursuant to subsection (E)(3)(b) for a period not to exceed two and one-half years.
 - b. The trainee may perform authorized services, as set forth in subsection (F)(1) of this section, only under the supervision of the designated principal. Neither the trainee nor the designated principal may represent that the trainee is a certified legal document preparer.
 - c. Any designated principal who undertakes to train an employee shall:
 - (1) Assume personal professional responsibility for the trainee's guidance in any work undertaken and for supervising, generally or directly, as necessary, the quality of the trainee's work;
 - (2) Assist the trainee in activities to the extent the designated principal considers

it necessary;

- (3) Ensure the trainee is familiar with and adheres to the provisions of ACJA §§ 7-201 and -208;
 - (4) Provide the designated principal's name and certificate number, as required by subsection (F)(3), on any documents prepared by the trainee under the designated principal's supervision; and
 - (5) Prepare and submit a written acknowledgement of the roles and responsibilities of the designated principal and trainee pursuant to subsections (F)(5) and (F)(6). The written acknowledgement shall include the name, address, start date of the trainee, and the anticipated date the trainee will meet the minimum eligibility requirements to seek individual certification.
6. Designated Principal. The designated principal of a certified business entity shall:
- a. Prepare and submit, with the business entity application, a list of all certified legal document preparers and subsection (F)(5) trainees acting for or on behalf of the business entity;
 - b. File with the division staff , by May 1st of each year, a list of all certified legal document preparers and a list of all subsection (F)(5) trainees acting for or on behalf of the business entity;
 - c. Actively and directly supervise all other certified legal document preparers, subsection (F)(5) trainees, and staff working for the certified business entity; and
 - d. Represent the business entity, at the discretion of the entity, in any proceeding under this section.
7. Notification of Discipline. A certificate holder who has been disbarred from the practice of law in any state since original certification as a legal document preparer shall provide the information regarding the disbarment to the board within 30 days of service of the notice of the disbarment.
8. Notification of Denial of Admission. A certificate holder who has been denied admission to the practice of law in Arizona since original certification as a legal document preparer shall provide the information regarding the denial to the board within 30 days of service of the notice of the denial.

12. Arizona Code of Judicial Administration § 7-208 (G) – Renewal of Certification

- G. Renewal of Certification. In addition to the requirements contained in ACJA § 7-201(G) the following requirements apply:
1. Expiration Date. All standard certifications expire at midnight, on June 30th of each odd numbered year.
 2. Continuing Education. All certified legal document preparers shall complete ten

hours of continuing education each year for a total of twenty hours every certification period pursuant to subsection (L).

3. Decision Regarding Renewal. In addition to the requirements contained in ACJA § 7-201(G), the review and certification decision and hearing provisions of subsection (E)(4) shall apply to a certificate holder who has been disbarred or who has been denied admission to the practice of law since the date of the original certification.

13. Arizona Code of Judicial Administration § 7-208 (J) – Code of Conduct

J. Code of Conduct. This code of conduct is adopted by the supreme court to apply to all certified legal document preparers in the state of Arizona. The purpose of this code of conduct is to establish minimum standards for performance by certified legal document preparers.

1. Ethics.

- a. A legal document preparer shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with the laws, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the legal and judicial systems.
- b. A legal document preparer shall be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest.
- c. A legal document preparer shall promptly make full disclosure to a consumer of any relationships which may give the appearance of or constitutes a conflict of interest.
- d. A legal document preparer shall refrain from knowingly making misleading, deceptive, untrue, or fraudulent representations while assisting a consumer in the preparation of legal documents. A legal document preparer shall not engage in unethical or unprofessional conduct in any professional dealings that are harmful or detrimental to the public.

2. Professionalism.

- a. A legal document preparer shall treat information received from the consumer as confidential, yet recognize and acknowledge that the privilege of attorney – client confidential communications is not extended to certified legal document preparers.
- b. A legal document preparer shall be truthful and accurate when advertising or representing the legal document preparer’s qualifications, skills or abilities, or the services provided. A legal document preparer shall demonstrate respect for the legal system and for those who serve it, including judges, judicial staff, attorneys, other legal document preparers and public officials. A legal document preparer shall not make a statement the legal document preparer knows is false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer, public legal

officer, attorney, other legal document preparer or judicial staff.

- c. A legal document preparer shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.
- d. A legal document preparer shall keep abreast of current developments in the law as they relate to legal document preparation and shall fulfill ongoing training requirements to maintain professionalism and the skills necessary to perform their duties competently.

3. Fees and Services.

- a. A legal document preparer shall, upon request of a consumer at any time, disclose in writing an itemization of all rates and charges to that consumer.
- b. A legal document preparer shall determine fees independently, except when otherwise established by law, entering into no unlawful agreements with other legal document preparers on the fees charged to any user.
- c. A legal document preparer shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:
 - (1) Establishing contingent fees as a basis of compensation;
 - (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services; and
 - (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments.
- d. A legal document preparer may consult, associate, collaborate with, and involve other professionals in order to assist the consumer.

4. Skills and Practice.

- a. A legal document preparer shall provide completed documents to a consumer in a timely manner. The legal document preparer shall make a good faith effort to meet promised delivery dates and make timely delivery of documents when no date is specified. A legal document preparer shall meet document preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A legal document preparer shall provide immediate notification to the consumer of any delays.
- b. A legal document preparer shall accept only those assignments for which the legal document preparer's level of competence will result in the preparation of an accurate document. The legal document preparer shall decline an assignment when the legal document preparer's abilities are inadequate for that assignment.

5. Performance in Accordance with Law.

- a. A legal document preparer shall perform all duties and discharge all

obligations in accordance with applicable laws, rules or court orders.

- b. A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process, except as authorized in Rule 31(d), Rules of the Supreme Court. A legal document preparer shall not attend court with a consumer for the purpose of assisting the consumer in the court proceeding, unless otherwise ordered by the court.
- c. A legal document preparer shall not provide any kind of advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies. This shall not, however, preclude a certified legal document preparer from providing the type of information permitted in subsection (F)(1) of this section. A legal document preparer shall inform the consumer in writing that a legal document preparer is not a lawyer, is not employed by a lawyer, and cannot give legal advice, and that communications with a legal document preparer are not privileged. A legal document preparer shall not use the designations “lawyer,” “attorney at law,” “counselor at law,” “law office,” “JD,” “Esq.,” or other equivalent words, the use of which is reasonably likely to induce others to believe the legal document preparer is authorized to engage in the practice of law in the state of Arizona.

14. Arizona Code of Judicial Administration § 7-208 (K) – Fee Schedule

K. Fee Schedule.

1. Standard Certification Fees

- a. Individual Certification for Two Year Certification Period \$650.00
 - (1) For certification expiring more than one year after application date \$650.00
 - (2) For certification expiring less than one year after application date \$325.00
- b. Fingerprint Application Processing. Rate set by Arizona law and subject to change.

2. Business Entity Certification for Two Year Certification Period \$650.00

- a. For certification expiring more than one year after application date \$650.00
- b. For certification expiring less than one year after application date \$325.00

3. Examination Fees

- a. New Applicants for Certification \$ 50.00

- b. Reexaminations \$ 50.00

(For any applicant who does not pass the examination on the first attempt. The \$50.00 fee applies to each reexamination.)

- c. Reregistration for Examination \$ 50.00

(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)

4. Renewal Certification Fees.

- a. Individual Renewal for Two Year Renewal Period \$600.00
- b. Business Entity Renewal for Two Year Renewal Period \$600.00
- c. Inactive Status \$200.00
- d. Late Renewal \$ 50.00
- e. Delinquent Continuing Education \$ 50.00

5. Miscellaneous Fees.

- a. Replacement of Certificate or Name Change \$ 25.00
- b. Public Record Request per Page Copy \$.50
- c. Certificate of Correctness of Copy of Record \$ 18.00
- d. Reinstatement Application \$100.00

(Application for reinstatement to certification after suspension or revocation of certification.)

15. Arizona Code of Judicial Administration § 7-208 (L) – Continuing Education Policy

L. Continuing Education Policy.

1. Purpose.

- a. Ongoing continuing education (“CE”) is one method to ensure legal document preparers maintain competence in the field after certification is obtained. Continuing education also provides opportunities for legal document preparers to keep abreast of changes in the profession and the Arizona judicial system.

- b. Pursuant to ACJA § 7-201 (D) the board shall make recommendations to the supreme court regarding rules, policies, and procedures to implement and enforce the requirements regarding legal document preparers, including continuing education. This subsection is intended to provide direction to legal document preparers to ensure compliance with the continuing education requirements and to provide for equitable application and enforcement of the continuing education requirements.

2. Applicability.

- a. Pursuant to subsection (G)(2), all legal document preparers who hold individual certification shall attend ten hours of approved continuing education each year between the period of May 1st and April 30th of the following year, for a total of no less than twenty hours of continuing education completed on or before April 30th of every odd numbered year. The continuing education requirements do not apply to certified legal document preparer business entities. Hours of participation are not transferable to certification periods other than the one in which the participation occurred.
- b. All certified legal document preparers shall comply with the continuing education policies in this subsection.

3. Responsibilities of Legal Document Preparers.

- a. It is the responsibility of each legal document preparer to ensure compliance with the continuing education requirements, maintain documentation of completion of continuing education, and to submit the maintained documentation to the legal document preparer program upon the request of the board or division staff.
- b. Upon request, each legal document preparer shall provide any additional information required by the board or division staff when reviewing renewal applications and continuing education documentation.
- c. Continuing education not recognized for credit upon board review does not in any way relieve the legal document preparer of the responsibility to complete the required hours of continuing education.

4. Authorized Continuing Education Activities.

- a. A CE activity shall address the areas of proficiency, competency, and performance of legal document preparation, impart knowledge and understanding of the profession, the Arizona judiciary, legal process, and increase the participant's understanding of the responsibilities of a certified legal document preparer. Authorized continuing education activities include the following subjects:
 - (1) The role and responsibility of certified legal document preparers including ACJA §§ 7-201, -208 and Rule 31.
 - (2) Ethics for legal document preparers and business entities, including cooperation with judges, attorneys, court staff, and other certified legal

document preparers, professional courtesy and impartiality to all litigants, and information versus legal advice. Each certified legal document preparer shall complete a minimum of one hour of the total continuing education requirement each year in an ethics based curriculum.

- (3) The Arizona court system including the state and federal constitution, branches of government, Arizona court jurisdiction and responsibilities, Arizona tribal court system, resource materials including Arizona Revised Statutes, Arizona Rules of Court, administrative orders and rules, as well as current issues in the Arizona court system.
 - (4) Research skills including utilizing reference materials and libraries and research techniques.
 - (5) Management issues including public relations, customer service, accounting, time management, human resources, financial and retirement planning, and office management. The maximum hours of continuing education credits earned as business management credit shall not exceed three hours per year of the total number of continuing education hours required for renewal.
 - (6) The maximum hours of continuing education credits earned from tax related curriculum shall not exceed three hours per year of the total number of continuing education hours required for renewal.
- b. Conferences. A legal document preparer may receive continuing education credit for attendance at a conference relevant to the profession. A legal document preparer may receive 100 percent of the continuing education credits for attendance at the conference, if the conference is directly related to the legal document preparer profession. Introductory remarks sessions, breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.
- c. University, college and other educational institution courses. A legal document preparer may receive continuing education credit for a course provided by a university, college or other institutionally accredited educational program if the legal document preparer successfully completes the course with a grade of "C" or better or a "pass" in a pass/fail grading system. A legal document preparer may receive continuing education credit if the course is relevant to the legal document preparer profession, up to two times the number of credit hours awarded by the educational institution. The maximum hours of continuing education credits earned from educational course work shall not exceed 50 percent of the total number of continuing education hours required for renewal.
- d. Self study. A legal document preparer may receive continuing education credit for self study activities, including video and audio tapes, online computer seminars, and other methods of independent learning. The maximum hours of continuing education credits earned in a self study format shall not exceed 50 percent of the total number of continuing education hours required for renewal.
- e. Serving as faculty. A legal document preparer may receive continuing education credit for serving as faculty, instructor, speaker, or panel member of an instructional seminar directly related to the profession of legal document

preparation. A legal document preparer may receive continuing education credit for the presentation time and up to two hours of preparation time for each hour of presentation. The maximum hours of continuing education credits earned as faculty credit shall not exceed 50 percent of the total number of continuing education hours required for renewal and a legal document preparer shall not receive duplicate credit for repeating a presentation during the certificate period.

5. Minimum time. Each continuing education activity shall consist of at least 30 minutes of actual clock time spent by a legal document preparer in actual attendance at and completion of a continuing education activity. "Actual clock time" includes the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the first 30 minutes of a continuing education activity, credit shall be recognized in fifteen minute increments.
6. Maximum credit. Unless the board otherwise determines a continuing education activity is directly related to the legal document preparer profession, a legal document preparer shall not receive more than 50 percent of the credit requirement for the certificate period through one activity.
7. Non-Qualifying Activities.
 - a. The following activities shall not qualify for continuing education credit for legal document preparers:
 - (1) Educational course work and training completed to qualify for certification;
 - (2) Trainee supervision activities. A legal document preparer shall not receive continuing education credit for trainee supervision;
 - (3) Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions or program orientation;
 - (4) Serving on committees or councils or as officers in a professional organization; and
 - (5) Activities completed as required by the board as part of a disciplinary action.
 - b. Repeat of an Activity. Continuing education activities repeated during a certificate period do not qualify for credited duplicate hours.
 - c. If a legal document preparer attends part, but not all of a continuing education course, the legal document preparer holder is not eligible to claim partial credit completion.
8. Documentation of attendance or completion. When attending or completing a continuing education activity, each legal document preparer shall obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation shall include the:
 - a. name of the sponsor;
 - b. name of the participant;

- c. topic of the subject matter;
- d. number of hours actually attended or the number of credit hours awarded by the sponsoring entity;
- e. date and place of the program; and
- f. signature of the sponsor or an official document from the sponsoring entity.

9. Compliance and Non-Compliance.

- a. Affidavit of compliance. A legal document preparer shall submit an affidavit of continuing education compliance when applying for renewal of certification. The affidavit shall be in the format provided by division staff.
- b. Proration of continuing education requirement. A legal document preparer whose certificate expires less than one year from the effective date of certification shall complete no less than ten hours of continuing education credit during the balance of the certification period. In subsequent certification periods, the legal document preparer shall complete the biannual twenty hour continuing education requirement. Proration of the continuing education requirement does not apply to a legal document preparer who previously held certification and allowed their certification to lapse.
- c. Extension or waiver of continuing education requirements. A legal document preparer seeking renewal of certification who has not fully complied with the CE requirements may request an extension or waiver of the CE requirements under the following conditions:
 - (1) The legal document preparer submits a notarized written statement to the board, explaining the facts regarding non-compliance and requesting an extension or waiver of the requirements no later than the May 15th preceding the June 30th expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the legal document preparer to complete the continuing education requirement.
 - (2) The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the legal document preparer has been unable to devote sufficient hours to fulfill the requirements during the certificate period because of:
 - (a) full-time service in the armed forces of the United States during a substantial part of the certificate period;
 - (b) an incapacitating illness documented by a statement from a currently licensed health care provider;
 - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or
 - (d) any other special circumstances the board deems appropriate.
 - (3) A legal document preparer whose certificate has been suspended or revoked by the board is not eligible to request a waiver or extension of the continuing education requirement.
 - (4) The board or division staff may request documentation or additional information from a legal document preparer applying for renewal to verify compliance with the continuing education requirements. If the legal

document preparer fails to provide the requested documentation or additional information, the board may deem the application for renewal incomplete and deny renewal of certification.

- d. Random audits of continuing education compliance. During each renewal review period, the board shall direct division staff to randomly select a specified number of legal document preparers to demonstrate continuing education requirement compliance through submission of proof of continuing education participation. Refusal or failure to respond to a board or division staff request for audit documentation of continuing education compliance may result in denial of renewal of certification or disciplinary action pursuant to ACJA § 7-201(H) and this section.
- e. A legal document preparer who fails to complete the continuing education requirement, completes any portion of the continuing education requirement after April 30th of each odd numbered year, falsifies documents, or misrepresents attendance or an activity is subject to any or all of the following actions of the board;
 - (1) Assessment of the delinquent continuing education fee;
 - (2) Denial of renewal of certification; and
 - (3) Disciplinary action pursuant to ACJA § 7-201(H) and this section.

10. Board Decision Regarding Continuing Education Compliance.

- a. Upon a review of continuing education documentation and any applicable additional information requested, the board may:
 - (1) Recognize legal document preparer compliance with the continuing education requirement;
 - (2) Require additional information from the legal document preparer seeking renewal before making a decision;
 - (3) Recognize partial compliance with the requirement and order remedial measures; or
 - (4) Enter a finding of non-compliance.
- b. The division staff shall promptly notify the legal document preparer, in writing, of the board's decision. A legal document preparer may appeal the decision by submitting a written request for review to the legal document preparer program within fifteen days of receipt of notification of the board's decision. The legal document preparer requesting review may request to appear before the board at the next available regularly scheduled board meeting.
- c. The certification of a legal document preparer who timely appeals a decision by the board regarding continuing education shall continue in force until a final decision is made by the board.
- d. The board shall make the decision on the appeal in writing. The decision is final and binding.

16. Rules of the Supreme Court of Arizona, Rule 31

Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

1. Jurisdiction. Any person or entity engaged in the practice of law or unauthorized practice of law in this state, as defined by these rules, is subject to this court's jurisdiction.

2. Definitions.

A. "Practice of law" means providing legal advice or services to or for another by:

(1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;

(2) preparing or expressing legal opinions;

(3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;

(4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity; or

(5) negotiating legal rights or responsibilities for a specific person or entity.

B. "Unauthorized practice of law" includes but is not limited to:

(1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d); or

(2) using the designations "lawyer," "attorney at law," "counselor at law," "law," "law office," "J.D.," "Esq.," or other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d), the use of which is reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in this state.

C. "Legal assistant/paralegal" means a person qualified by education and training who performs substantive legal work requiring a sufficient knowledge of and expertise in legal concepts and procedures, who is supervised by an active member of the State Bar of Arizona, and for whom an active member of the state bar is responsible, unless otherwise authorized by supreme court rule.

D. "Mediator" means an impartial individual who is appointed by a court or government entity or engaged by disputants through written agreement, signed by all disputants, to mediate a dispute.

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

- (c) Restrictions on Disbarred Attorneys' and Members' Right to Practice. No member who is currently suspended or on disability inactive status and no former member who has been disbarred shall practice law in this state or represent in any way that he or she may practice law in this state.
- (d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:
1. In any proceeding before the Department of Economic Security, including a hearing officer, an Appeal Tribunal or the Appeals Board, an individual party (either claimant or opposing party) may be represented by a duly authorized agent who is not charging a fee for the representation; an employer, including a corporate employer, may represent itself through an officer or employee; or a duly authorized agent who is charging a fee may represent any party, providing that an attorney authorized to practice law in the State of Arizona shall be responsible for and supervise such agent.
 2. An employee may designate a representative, not necessarily an attorney, before any board hearing or any quasi-judicial hearing dealing with personnel matters, providing that no fee may be charged for any services rendered in connection with such hearing by any such designated representative not an attorney admitted to practice.
 3. An officer of a corporation or a managing member of a limited liability company who is not an active member of the state bar may represent such entity before a justice court or police court provided that: the entity has specifically authorized such officer or managing member to represent it before such courts; such representation is not the officer's or managing member's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity; and the entity was an original party to or a first assignee of a conditional sales contract, conveyance, transaction or occurrence that gave rise to the cause of action in such court, and the assignment was not made for a collection purpose.
 4. A person who is not an active member of the state bar may represent a party in small claims procedures in the Arizona Tax Court, as provided in Title 12, Chapter 1, Article 4 of the Arizona Revised Statutes.
 5. In any proceeding in matters under Title 23, Chapter 2, Article 10 of the Arizona Revised Statutes, before any administrative law judge of the Industrial Commission of Arizona or review board of the Arizona Division of Occupational Safety and Health or any successor agency, a corporate employer may be represented by an officer or other duly authorized agent of the corporation who is not charging a fee for the representation.
 6. An ambulance service may be represented by a corporate officer or employee who has been specifically authorized by the ambulance service to represent it in an administrative hearing or rehearing before the Arizona Department of Health Services as provided in Title 36, Chapter 21.1, Article 2 of the Arizona Revised Statutes.

7. A person who is not an active member of the state bar may represent a corporation in small claims procedures, so long as such person is a full-time officer or authorized full-time employee of the corporation who is not charging a fee for the representation.
8. In any administrative appeal proceeding of the Department of Health Services, for behavioral health services, pursuant to A.R.S. § 36-3413 (effective July 1, 1995), a party may be represented by a duly authorized agent who is not charging a fee for the representation.
9. An officer or employee of a corporation or unincorporated association who is not an active member of the state bar may represent the corporation or association before the superior court (including proceedings before the master appointed according to A.R.S. § 45-255) in the general stream adjudication proceedings conducted under Arizona Revised Statutes Title 45, Chapter 1, Article 9, provided that: the corporation or association has specifically authorized such officer or employee to represent it in this adjudication; such representation is not the officer's or employee's primary duty to the corporation but secondary or incidental to other duties related to the management or operation of the corporation or association; and the officer or employee is not receiving separate or additional compensation (other than reimbursement for costs) for such representation. Notwithstanding the foregoing provision, the court may require the substitution of counsel whenever it determines that lay representation is interfering with the orderly progress of the litigation or imposing undue burdens on the other litigants. In addition, the court may assess an appropriate sanction against any party or attorney who has engaged in unreasonable, groundless, abusive or obstructionist conduct.
10. An officer or full-time, permanent employee of a corporation who is not an active member of the state bar may represent the corporation before the Arizona Department of Environmental Quality in an administrative proceeding authorized under Arizona Revised Statutes. Title 49, provided that: the corporation has specifically authorized such officer or employee to represent it in the particular administrative hearing; such representation is not the officer's or employee's primary duty to the corporation but secondary or incidental to other duties related to the management or operation of the corporation; the officer or employee is not receiving separate or additional compensation (other than reimbursement for costs) for such representation; and the corporation has been provided with a timely and appropriate written general warning relating to the potential effects of the proceeding on the corporation's and its owners' legal rights.
11. Unless otherwise specifically provided for in this rule, in proceedings before the Office of Administrative Hearings, a legal entity may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the

person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

12. In any administrative appeal proceeding relating to the Arizona Health Care Cost Containment System, an individual may be represented by a duly authorized agent who is not charging a fee for the representation.
13. In any administrative matter before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Arizona Corporation Commission, or any county, city, or town taxing or appeals official, a taxpayer may be represented by (1) a certified public accountant, (2) a federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1), or (3) in matters in which the dispute, including tax, interest and penalties, is less than \$5,000.00 (five thousand dollars), any duly appointed representative. A legal entity, including a governmental entity, may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.
14. If the amount in any single dispute before the State Board of Tax Appeals is less than twenty-five thousand dollars, a taxpayer may be represented in that dispute before the board by a certified public accountant or by a federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1).
15. Nothing in these rules shall limit a certified public accountant or other federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1), from practicing before the Internal Revenue Service or other federal agencies where so authorized.
16. Nothing in these rules shall prohibit the rendering of individual and corporate financial and tax advice to clients or the preparation of tax-related documents for filing with governmental agencies by a certified public accountant or other federally authorized tax practitioner as that term is defined in A.R.S. § 42-2069(D)(1).
17. Nothing in this rule shall affect the ability of nonlawyer assistants to act under the supervision of a lawyer in compliance with ER 5.3 of the rules of professional conduct. This exemption is not subject to section (c).
18. Nothing in these rules shall prohibit the supreme court, court of appeals, superior courts, or limited jurisdiction courts in this state from creating and distributing form documents for use in Arizona courts.

19. Nothing in these rules shall prohibit the preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties.
20. Nothing in these rules shall prohibit the preparation of tax returns.
21. Nothing in these rules shall affect the rights granted in the Arizona or United States Constitutions.
22. Nothing in these rules shall prohibit an officer or employee of a governmental entity from performing the duties of his or her office or carrying out the regular course of business of the governmental entity.
23. Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208. This exemption is not subject to paragraph (c) of this rule, as long as the disbarred attorney or member has been certified as provided in § 7-208 of the Arizona Code of Judicial Administration.
24. Nothing in these rules shall prohibit a mediator as defined in these rules from facilitating a mediation between parties, preparing a written mediation agreement, or filing such agreement with the appropriate court, provided that:
 - (A) the mediator is employed, appointed or referred by a court or government entity and is serving as a mediator at the direction of the court or government entity; or
 - (B) the mediator is participating without compensation in a non-profit mediation program, a community-based organization, or a professional association.

In all other cases, a mediator who is not a member of the state bar and who prepares or provides legal documents for the parties without the supervision of an attorney must be certified as a legal document preparer in compliance with the Arizona Code of judicial Administration, Part 7, Chapter 2, Section 7- 208.
25. Nothing in these rules shall prohibit a property tax agent, as that term is defined in A.R.S. § 32-3651, who is registered with the Arizona State Board of Appraisal pursuant to A.R.S. § 32-3642, from practicing as authorized pursuant to A.R.S. § 42-16001.
26. Nothing in these rules shall affect the ability of lawyers licensed in another jurisdiction to engage in conduct that is permitted under ER 5.5 of the rules of professional conduct.

17. Rules of the Supreme Court of Arizona, Rule 123 (a)
Rule 123. Public Access to Judicial Records of the State of Arizona

(a) Authority and Scope of Rule. Pursuant to the administrative powers vested in the supreme court by Article VI, Section 3, of the Arizona Constitution, and the court's inherent power to administer and supervise court operations, this rule adopted to govern public access to the records of all courts and administrative offices of the judicial department of the State of Arizona.

18. Arizona Rules of Civil Procedure, Rule 4 (b). [Summons; Form; Replacement Summons](#)

The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the person to be served, state the name and address of the attorney, if any, for the party on whose behalf service is being made, and otherwise that party's address. The summons shall state the time within which these Rules require the person being served to appear and defend, and shall notify that person that in case of a failure to do so judgment by default will be rendered against that person for the relief demanded in the pleading served.

19. Arizona Rules of Civil Procedure, Rule 4 (d). Process; By Whom Served

Service of process shall be by a sheriff, a sheriff's deputy, a private process server registered with the clerk of the court pursuant to subpart (e) of this Rule, or any other person specially appointed by the court, except that a subpoena may be served as provided in Rule 45. Service of process may also be made by a party or that party's attorney where expressly authorized by these Rules. A private process server or specially appointed person shall be not less than twenty-one (21) years of age and shall not be a party, an attorney, or the employee of an attorney in the action whose process is being served.

20. Arizona Rules of Civil Procedure, Rule 4 (i). [Summons; Time Limit for Service](#)

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to Rule 4.2(h), (i), (j) and (k) of these rules.

21. Arizona Rules of Civil Procedure, Rule 4.1 (n). [Service of Process Within Arizona](#)

(n) Service by Publication; Return. Where the person to be served is one whose residence is unknown to the party seeking service but whose last known residence address was within the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of the institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons, and of a statement as to the manner in which a copy of the pleading being served may be obtained, at least once a week for four successive weeks (1) in a newspaper published in the county where the action is pending, and (2) in a newspaper

published in the county of the last known residence of the person to be served if different from the county where the action is pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication.

22. Arizona Rules of Civil Procedure 6 (a). Computation

In computing any period of time prescribed or allowed by these rules, by any local rules, by order of court, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed, exclusive of any additional time allowed under subdivision (e) of this rule, is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

23. Arizona Rules of Civil Procedure 7 (a). Pleadings allowed

There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

24. Arizona Rules of Civil Procedure 10 (a). Caption; names of parties

Every pleading shall contain a caption setting forth the name of the court, the title of the action, the file number, and a designation as in Rule 7(a). In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

25. Arizona Rules of Civil Procedure 10 (d). Method of preparation and filing

All pleadings and other papers filed in any action or proceeding shall be on white, opaque, unglazed paper measuring 8- 1/2 inches x 11 inches, with a margin at the top of the first page of not less than 2 inches; a margin at the top of each subsequent page of not less than 1- 1/2 inches; a left-hand margin of not less than 1 inch; a right-hand margin of not less than 1/2 inch; and a margin at the bottom of the page of not less than 1/2 inch.

Notwithstanding the foregoing, exhibits, attachments to pleadings, or pleadings from jurisdictions other than the State of Arizona which are larger than the specified size shall be folded to the specified size or folded and fastened to pages of the specified size.

Exhibits or attachments to pleadings which are smaller than the specified size shall be fastened to pages of the specified size. An exhibit, attachment to a pleading or a pleading from a jurisdiction other than the State of Arizona not in compliance with the foregoing provisions may be filed only if it appears that compliance is not reasonably practicable.

All pleadings and other papers filed shall have the pages numbered and shall state the number of the action, the title of the court and action, the nature of the paper filed and the name, address, Arizona Bar Number and telephone number of the attorney. Originals only shall be filed, except that where it is necessary to file more than one copy of a pleading or other paper the additional copies may be photocopies or computer generated duplicates.

All pleadings and other papers filed, other than printed forms, shall be clearly and written or typewritten on one side of the page only. The body of all documents shall be double spaced and shall not exceed 28 lines per page, except for headings, quotations and footnotes which may be single spaced.

Printed forms may be single spaced except that those requiring the signature of a judge or commissioner shall be double spaced. Printed forms must be single sided. All printed forms shall be on paper of sufficient quality and weight to assure legibility upon duplication, microfilming or imaging.

The court may, on its own motion or on request of any party, waive any of the foregoing requirements or provisions.

26. Arizona Rules of Civil Procedure 55 (b)(1)(ii). Judgment by default

Judgment by default may be entered as follows:

1. *By Motion.*

(ii) When a petition for legal separation, dissolution, or annulment of marriage has been filed, a decree may be entered upon motion supported by the affidavit of either or both parties to the marriage, provided that: a) there are no minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to affiant's knowledge, is not pregnant; b) neither party has any interest in real property wherever situated; c) the parties waive any right to spousal maintenance; d) there are no unpaid obligations in excess of \$10,000 incurred by either or both of the parties from the date of the marriage; and e) the total fair market value of community personal property assets, excluding all encumbrances, is less than \$15,000.

27. Arizona Revised Statutes § 10-124 (A). Correcting filed document; articles of incorporation; authority to transact business

A. A domestic or foreign corporation may correct a document that has been filed by the commission pursuant to chapters 1 through 17 of this title if the document either:

1. Contains an incorrect statement and the correction does not materially alter a substantive provision.
2. Was defectively executed, attested, verified or acknowledged.

28. Arizona Revised Statutes § 10-140 (10). Definitions

10. "Bylaws" means the code of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name by which those rules are designated.

29. Arizona Revised Statutes § 10-11601 (E)(7). Corporate records

E. A corporation shall keep a copy of all of the following records at its principal office, at its known place of business or at the office of its statutory agent:

7. Its most recent annual report delivered to the commission under section 10-11622.

30. Arizona Revised Statutes § 10-11622 (C). Annual report

C. The corporation shall deliver the annual report to the commission for filing each subsequent year in the anniversary month on the date assigned by the commission.

31. Arizona Revised Statutes § 12-323 (B). Certificate of admission to the practice of law; certified copies of papers; background investigation

B. The supreme court shall require each person who applies for certification or licensure to practice law to furnish a full set of fingerprints to enable a criminal background investigation to be conducted to determine the suitability of the applicant. The completed applicant fingerprint card shall be submitted with the fee prescribed in section 41-1750 to the department of public safety. The applicant shall bear the cost of obtaining the applicant's criminal history record information. The cost shall not exceed the actual cost of obtaining the applicant's criminal history record information. Applicant criminal history records checks shall be conducted pursuant to section 41-1750 and Public Law 92-544. The department of public safety is authorized to exchange the submitted applicant fingerprint card information with the federal bureau of investigation for a national criminal history records check.

32. Arizona Revised Statutes § 13-3602 (O). Order of protection

The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court.

33. Arizona Revised Statutes § 14-2502 (A). Execution; witnessed wills; holographic wills

- A. Except as provided in sections 14-2503, 14-2506 and 14-2513, a will shall be:
1. In writing.
 2. Signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction.
 3. Signed by at least two people, each of whom signed within a reasonable time after that person witnessed either the signing of the will as described in paragraph 2 or the testator's acknowledgment of that signature or acknowledgment of the will.

34. Arizona Revised Statutes § 14-5312 (A). General powers and duties of guardian

A. A guardian of an incapacitated person has the same powers, rights and duties respecting the guardian's ward that a parent has respecting the parent's unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the guardianship.

35. Arizona Revised Statutes § 14-5501. Durable power of attorney; creation; validity

A. A durable power of attorney is a written instrument by which a principal designates another person as the principal's agent. The instrument shall contain words that demonstrate the principal's intent that the authority conferred in the durable power of attorney may be exercised:

1. If the principal is subsequently disabled or incapacitated.
2. Regardless of how much time has elapsed, unless the instrument states a definite termination time.

B. The written instrument may demonstrate the principal's intent required by subsection A of this section using either of the following statements or similar language:

1. "This power of attorney is not affected by subsequent disability or incapacity of the principal or lapse of time."
2. "This power of attorney is effective on the disability or incapacity of the principal."

C. A power of attorney executed in another jurisdiction of the United States is valid in this state if the power of attorney was validly executed in the jurisdiction in which it was created.

D. From and after August 1, 1998, except as provided in section 28-370, an adult, known as the principal, may designate another adult, known as the agent, to make financial decisions on the principal's behalf by executing a written power of attorney that satisfies all of the following requirements:

1. Contains language that clearly indicates that the principal intends to create a power of attorney and clearly identifies the agent.
2. Is signed or marked by the principal or signed in the principal's name by some other individual in the principal's conscious presence and at the principal's direction.
3. Is witnessed by a person other than the agent, the agent's spouse, the agent's children or the notary public.

4. Is executed and attested by its acknowledgment by the principal and by an affidavit of the witness before notary public and evidenced by the notary public's certificate, under official seal,...

36. Arizona Revised Statutes § 22-201 (D). Jurisdiction of civil actions

D. Justices of the peace have jurisdiction concurrent with the superior court in cases of forcible entry and detainer when the amount involved, exclusive of interest, costs and awarded attorney fees when authorized by law, is ten thousand dollars or less.

37. Arizona Revised Statutes § 22-303 (A). Change of venue; limitation

A. If the action or proceeding is in a justice of the peace court, a change of the place of trial may be had no later than twenty days before the first trial date if a party requests a change of venue and either:

1. It appears from the affidavit of the defendant that he has reason to believe and does believe that he cannot have a fair and impartial trial before the justice of the peace about to try the case by reason of the prejudice or bias of such justice. If the affidavit is filed in the action, the action shall be transferred to the justice of the peace of an adjoining precinct.

2. It appears from affidavits filed in the action that the defendant cannot have a fair and impartial trial by reason of the prejudice of the citizens of the precinct. The cause shall be transferred to a justice of a precinct where the same prejudice does not exist.

38. Arizona Revised Statutes § 25-302 (A). Procedure and law

A. The jurisdictional requirements and procedure for obtaining an annulment shall be the same as if the matter were one of dissolution of marriage.

39. Arizona Revised Statutes § 25-311 (A). Jurisdiction; form of petition; award of decree

A. The superior court is vested with original jurisdiction to hear and decide all matters arising pursuant to this chapter and pursuant to chapter 4, article 1 of this title.

40. Arizona Revised Statutes § 25-320 (D). Child support; factors; methods of payment; additional enforcement provisions; definitions

D. The supreme court shall establish guidelines for determining the amount of child support. The amount resulting from the application of these guidelines is the amount of child support ordered unless a written finding is made, based on criteria approved by the supreme court, that application of the guidelines would be inappropriate or unjust in a particular case. The supreme court shall review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts. The supreme court shall base the guidelines and criteria for deviation from them on all relevant factors, including:

1. The financial resources and needs of the child.

2. The financial resources and needs of the custodial parent.
3. The standard of living the child would have enjoyed had the marriage not been dissolved.
4. The physical and emotional condition of the child, and the child's educational needs.
5. The financial resources and needs of the noncustodial parent.
6. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.
7. The duration of parenting time and related expenses.

41. Arizona Revised Statutes § 25-327 (A). Modification and termination of provisions for maintenance, support and property disposition

A. Except as otherwise provided in section 25-317, subsections F and G, the provisions of any decree respecting maintenance or support may be modified or terminated only on a showing of changed circumstances that are substantial and continuing except as to any amount that may have accrued as an arrearage before the date of notice of the motion or order to show cause to modify or terminate.

42. Arizona Revised Statutes § 25-501 (A). Duties of support; exemption

A. Except as provided in subsection F of this section, every person has the duty to provide all reasonable support for that person's natural and adopted minor, unemancipated children, regardless of the presence or residence of the child in this state. In the case of mentally or physically disabled children, if the court, after considering the factors set forth in section 25-320, subsection D, deems it appropriate, the court may order support to continue past the age of majority. If a child reaches the age of majority while the child is attending high school or a certified high school equivalency program, support shall continue to be provided while the child is actually attending high school or the equivalency program but only until the child reaches nineteen years of age unless the court enters an order pursuant to section 25-320, subsection E.

43. Arizona Revised Statutes § 29-632 (A)(1) through (4). Articles of organization

A. The articles of organization shall state:

1. The name of the limited liability company.
2. The name, street address in this state and signature of the agent for service of process required to be maintained by section 29-604.
3. The address of the company's known place of business in this state, if different from the street address of the company's statutory agent.
4. The latest date, if any, on which the limited liability company must dissolve.

44. Arizona Revised Statutes § 29-635 (A). Formation of limited liability company

A. Except as provided in section 29-634, subsection C, a limited liability company is formed when the articles of organization are delivered to the commission for filing, even if the commission is unable to make the determination required for filing by section 29-634, subsection A at the time of delivery.

45. United States Bankruptcy Court, District of Arizona General Order 89

11 U.S.C. Section 110(k) does not permit a bankruptcy petition preparer to engage in activities “that are otherwise prohibited by law, including the rules and laws that prohibit the unauthorized practice of law.” The Supreme Court of the State of Arizona has enacted amendments to its Rule 31 governing the unauthorized practice of law which are effective commencing July 1, 2003. Rule 31 sets forth the general rule that only an active member of the State Bar of Arizona may practice law in the State of Arizona. The amendments create a limited exception to that general rule for certified legal document preparers provided that the services performed are in compliance with the Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208, which include the preparation of legal documents. 11 U.S.C. Section 110 and case law decided thereunder may limit the nature and extent of those services a certified legal document preparer may provide in a bankruptcy proceeding. A person who performs these services, who is not an active member of the State Bar of Arizona or is not a certified legal document preparer, is engaged in the unauthorized practice of law.

Commencing July 1, 2003, a bankruptcy petition preparer, who prepares documents for filing in the United States Bankruptcy Court for the District of Arizona, therefore, is required to be a certified legal document preparer, pursuant to the requirements of the Rules of the Supreme Court of the State of Arizona. If not so certified, the bankruptcy petition preparer may be engaged in the unauthorized practice of law prohibited by 11 U.S.C. Section 110.

IT IS THEREFORE ORDERED THAT:

1. Effective July 1, 2003, only bankruptcy petition preparers, as defined by 11 U.S.C. Section 110, who are certified legal document preparers pursuant to the Rules of the Supreme Court of the State of Arizona are permitted to prepare documents for filing in the United States Bankruptcy Court for the District of Arizona.
2. Any bankruptcy petition preparer, who on or after July 1, 2003, prepares a document for filing in the United States Bankruptcy Court for the District of Arizona and who is not a certified legal document preparer as stated above may be subject to the sanctions provided in 11 U.S.C. Section 110 and/or as provided by law.
3. In addition to the requirements of 11 U.S.C. Section 110, a bankruptcy petition preparer, certified as a legal document preparer under Arizona law, shall provide his/her certification number and a business phone number on any document which is filed with the Bankruptcy Court.
4. This Order shall not be construed as a modification of 11 U.S.C. 110(f), which prohibits bankruptcy petition preparers from using the word “legal” in any advertisement or advertising under any category which utilizes said term.

DATED: July 1, 2003

46. 11 United States Code § 110 (c)(2)

(c) (2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

47. Black’s Law Dictionary – “jurisdiction”

Areas of authority: The geographic area in which a court has power or types of cases it has power to hear.

48. Black's Law Dictionary – “judgment of default”

A judgment rendered in consequence of the non-appearance of the defendant.

49. Black's Law Dictionary – “tort”

A private or civil wrong or injury, including action for bad faith breach of contract, for which the court will provide a remedy in the form of an action for damages.

50. Black's Law Dictionary – “motion”

An application made to the court or judge for purpose of obtaining a rule or order directing some act to be done in favor of the applicant.

51. Black's Law Dictionary – “dismissal with prejudice”

Term meaning an adjudication on the merits, and final disposition, barring the right to bring or maintain an action on the same claim or cause.

52. Black's Law Dictionary – “conservator”

A guardian; protector; preserver. Appointed by the court to manage the affairs of incompetent or to liquidate business.

53. Black's Law Dictionary – “lien”

A claim, encumbrance, or charge on property for payment of some debt, obligation or duty.