ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
§ 7-205: Defensive Driving

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

"Additional modality application fee" means the fee imposed for certifying each additional course delivery method utilized by a school that offers more than one mode of delivery, as specified in § 7-205(K)(4).

"Affirmation of eligibility" means a form an offender signs affirming the offender's eligibility to attend a defensive driving course.

"Alternative delivery method (ADM)" means a defensive driving course other than a live classroom presentation by an instructor.

"Attend" means to participate in a defensive driving course, whether at a classroom site, or using the materials for an ADM course.

"Batch processing" means the method by which multiple student records are transmitted to the defensive driving database as one group.

"Bond card" means a court's civil sanction schedule providing contact information for defensive driving schools.

"Class schedule directory" means a complete listing of a school's defensive driving courses for a specified advance period of time including instructor name, time of courses, date and location.

"Complete" means to begin and successfully fulfill all requirements of a defensive driving course.

"Completion certificate" means a document that may be issued by a school to an individual who has successfully completed a defensive driving course.

"Continuance" means the extension of the scheduled court arraignment date for an individual, pursuant to court order or an administrative order issued by the presiding judge.

"Course demonstration" means a presentation of an applicant school's complete curriculum including all ADM options.

"Course participation questions" means the set of queries asked of a student to determine if the student is the person registered for the course and participating in the ADM course.

"Court" means, pursuant to A.R.S. § 28-3391, "... unless the context otherwise requires, ... a juvenile division of the superior court, a justice of the peace court or a municipal court."

"Court automation requirements" means the minimum capabilities necessary to electronically transmit student completion records and fund transfers to the court of jurisdiction.

"Court reporting requirements" means the method and minimum amount of information needed by a court of jurisdiction to adjudicate a citation.

"Curriculum" means a detailed written outline of the defensive driving course or lesson plan, films or audiovisual materials and any written materials the school intends to use to supplement the presentation.

"Days" unless otherwise defined, means calendar days.

"Defensive driving course" means an educational and behavior modification presentation designed to teach safe driving practices and attitudes used for the purpose of court diversion or as an element of a sentence.

"Defensive driving database" means the database instituted pursuant to A.R.S. § 28-3395(B)(3) for the purpose of recording all individual completions of defensive driving courses for court diversion programs and court orders.

"Diversion" means a procedure allowing a person cited for certain designated minor moving traffic violations to complete a defensive driving course in lieu of payment of a court fine and entry of the citation against the Motor Vehicle Division of the Arizona Department of Transportation driver record.

"Eligible individual" means person cited for a moving traffic violation, who qualifies for diversion under A.R.S. § 28-3392(A)(1) or (A)(2).

"Identity verification questions" means the queries made throughout an ADM course presentation for personal information from the student participating in the course.

"Instructional time" means the time spent presenting the school's approved curriculum. Instructional time does not include breaks, registration, audiovisual set-up, technical breakdown or assistance, or time devoted to other administrative functions.

"Instructor" means a person who is certified pursuant to ACJA § 7-201(E) and this section to conduct defensive driving courses for a school.

"Instructor seminar" means the course of study a school presents to an applicant for certification as an instructor prior to the submission of the individual's application for certification or an instructor prior to the instructor conducting a course for the school.

"Multi-purpose agency" means an entity which conducts other traffic related classes, or conducts other activities, services or sales in addition to and apart from its court diversion business.

"Negative state fee report" means a standard form submitted in lieu of payment of state fees and completion reports when no students completed a school's defensive driving course during a reporting period and therefore, no state fees are due.

"On-line processing" means a school submits student records to the defensive driving database through direct access, one record at a time.

"Owner" means any individual or entity that holds a beneficial interest in a defensive driving school.

"Primary-provider" means a school which has entered into a contract with a court or courts to provide defensive driving courses for court diversion and its related activities.

"Remittance report" means a detailed statement of an individual student's court diversion or state fees attached to the disbursement check for any court or the AOC.

"Reporting period" means the two periods of the month set forth for receipt of payments and remittance reports.

"Restricted certificate" means permission granted to a school owner or principal to present defensive driving courses.

"School" means an entity certified pursuant to ACJA § 7-201(E) and this section to provide an educational defensive driving course designed to teach safe driving practices and attitudes.

"School fee" means the total amount, including all fees, charged to each student by a school for attending a defensive driving course and retained by the school for its services.

"Serious physical injury" means "physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb" as provided by A.R.S. § 13-105(38).

"State fee" means the amount mandated by A.R.S. §§ 28-3397(A) and 12-114(A) collected by a school from each individual who begins a defensive driving course for diversion, or by an order of a court.

"State fiscal year" means the state business year from July 1 to June 30.

"State surcharge" means the amount mandated by A.R.S. § 28-3396 (A)(2) collected by a school from each individual who begins a defensive driving course and transmitted to the state treasurer for deposit in the state general fund.

B. Applicability. This section applies to the certification of schools and instructors and the use of schools by the courts, pursuant to A.R.S. §§ 28-3391 through -3399. This section is read in conjunction with ACJA § 7-201: General Requirements. In the event of a conflict between this section and ACJA § 7-201, the provisions of this section shall govern. This section does not apply to educational providers established pursuant to other statutes mandating or governing educational programs administered by other agencies except where these providers also maintain certification as a school.

C. Purpose. This section is intended to result in the effective administration of the defensive driving program and in certification of schools and instructors for performance of responsibilities in a professional and competent manner, for the protection of the public in accordance with all applicable statutes, ACJA § 7-201 and this section.

D. Administration. In addition to the requirements of ACJA § 7-201(D), the following requirements apply:

1. Pursuant to A.R.S. § 28-3395(B), the supreme court shall:

    1. Supervise the use of defensive driving schools by the courts in this state.

    2. Make public the amount of the court diversion fee assessed by each court in this state . . . and the total cost to attend a defensive driving school in each court.

    3. Establish an automated statewide data base for keeping a record of persons who attend a defensive driving school.

    4. Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts.

    5. Establish procedures for courts and schools to remit reports that are required by the supreme court.

    6. Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion program.

2. Role and Responsibilities of the Director. In addition to the requirements of ACJA § 7-201(D), the director may require the inclusion of specific provisions in any contracts written between courts and providers of defensive driving courses to ensure compliance with ACJA § 7-201 and this section.

3. Role and Responsibilities of the Deputy Director. These responsibilities are contained in ACJA § 7-201(D)(3).

4. Role and Responsibilities of Division Staff. In addition to the requirements of ACJA § 7-201(D)(4), division staff shall:

   a. Review and make recommendations, in writing when necessary, to an applicant school regarding the applicant's:

      (1) Affirmation of eligibility;
      (2) Fee refund policy;
      (3) Defensive driving course evaluation form;
      (4) Completion certificate and/or receipting;
      (5) Instructor training seminar;
      (6) Administrative manual;
      (7) Operational manual;
      (8) Financial procedures manual;
      (9) Third - party contracts involving direct delivery of defensive driving services to the public or any duties normally performed by the school;
      (10) Capability of operating as a batch or on-line school;
      (11) Course curriculum;
      (12) Course participation questions; and
      (13) Identity verification questions and processes.

   b. In conducting the review of an applicant school and making recommendations to an applicant:

      (1) Review curriculum to determine if the curriculum complies with applicable law, court rules and ACJA §§ 7-201 and -205; and
      (2) Utilize the supreme court's minimum accounting standards as a basis for any financial procedures.

   c. Conduct a review of the applicant school's course and curriculum by:

      (1) Setting a time and location for the applicant to present its defensive driving course in its entirety with all elements and intended formats as proposed in the curriculum;
      (2) Noting deficiencies in the course based on the minimum standards pursuant to subsections (E)(1)(k)(1) through (5) and provide the applicant a written summary of the deficiencies;
      (3) Providing a copy of the curriculum evaluation to the applicant; and
      (4) Setting a time and location for the applicant to provide a second demonstration of the course if the applicant's deficiencies are numerous.

   d. Conduct tests of the applicant school's hardware and software to verify the applicant school has:

(1) The necessary equipment to access the defensive driving database and maintain the connection for remittance of information;
(2) Staff with the expertise to maintain the connection for remittance of information;
(3) The necessary equipment to comply with court automation and reporting requirements and fund transfers; and
(4) A secure web site.

e. Administer the examination required pursuant to this section and ACJA § 7-201(E)(1)(f) by offering the examination a minimum of four times per calendar year, no less than once every three months.

f. Conduct training in the defensive driving database for the applicant school's designated principal upon certification.

g. Conduct, in conjunction with the schools, six hours of continuing education for instructors every calendar year in the two year renewal cycle for a total of twelve hours.

h. Implement a monitoring program including conducting compliance audits of certified schools and instructors.

5. Role and Responsibilities of the Board. In addition to the requirements of ACJA § 7-201(D), the following requirements apply:

a. The Defensive Driving Board is established pursuant to ACJA § 7-201(D), comprised of the following eleven members:

(1) Two certified instructors who have worked as a certified instructor for at least five years;
(2) One judge from a limited jurisdiction court;
(3) Two court administrators from limited jurisdiction courts;
(4) Three owners, principal officers or administrators of a classroom or ADM school who have owned the school or been a business partner in Arizona for at least two years;
(5) Two public members; and
(6) One additional member appointed by the chief justice.

b. Duties of the Board. In addition to the responsibilities contained in ACJA § 7-201(D), the board:

(1) Shall, pursuant to A.R.S. § 28-3393 and subsection (D)(6)(e)(3), review a request from a court for approval of the court's automation, reporting and fund transfer requirements. In conducting this review the board shall:
(a) Develop and distribute a request form for the courts to complete and submit;
(b) Conduct the review during a regularly scheduled meeting of the board;
(c) Base its review of the court's request for approval on the statewide standards

adopted by the supreme court for electronic reporting of defensive driving school registration and completion information;

(d) Review the stated reasons why the court's needs cannot be met through the statewide standards;

(e) Make a written decision either approving or denying the court's request. The board may grant an exception to the adopted standards only under the following circumstances:

(i) The court's case management system currently receives defensive driving completion information from the defensive driving schools in a manner that electronically receipts the associated court diversion fees to each individual case; or

(ii) A non-AZTEC court can demonstrate it needs additional time or cannot make the programming changes necessary to accept the defensive driving XML messages distributed by MQ series for integration into its case management system.

(f) If the board grants an exception, the board shall review the court's requirements one year after the approval. At the review, the board shall again consider the statewide automation standards and the court's needs and may either reauthorize the approval for another one year period or rescind the approval; and

(g) Request division staff post the list of courts and approved automation and reporting requirements on the website for distribution to the schools and public.

(2) May authorize restoration of eligibility for a student pursuant to subsection (F)(27)(g).

6. Role and Responsibilities of the Superior and Limited Jurisdiction Courts.

a. The presiding judge of the superior court shall supervise the use of defensive driving schools by the municipal and justice of the peace courts in the county in compliance with A.R.S. §§ 28-3391 – 3399 and ACJA § 7-205.

b. The presiding judge of the superior court shall not permit any court official or employee to accept, either directly or indirectly, any compensation or incentive to use a specific school.

c. The presiding judge of the justice, juvenile or municipal court shall:

(1) Subject to the approval of the presiding judge of the superior court, set a single diversion fee for an eligible offender attending a defensive driving course;

(2) Assess a diversion fee in lieu of a civil penalty or order a fine, but not both;

(3) Notify the supreme court in writing by September 1 for changes effective October 1 and March 1 for changes effective April 1 of the court's diversion fees pursuant to subsection (D)(6)(c)(1);

(4) Effective January 1, 2009, implement the provisions of A.R.S. § 28-3393:

A. Except as provided in subsection B, an eligible individual who elects to attend a defensive driving school shall attend one of the following within the time allowed by the court:

1. A defensive driving school that is certified by the supreme court and complies with the court automation and reporting requirements pursuant to subsections B and C.

2. On application to the court and on the showing of reasonable justification by the individual, another supreme court certified defensive driving school. Reasonable justification includes the fact that the individual resides in another area and that attendance at any of the defensive driving schools that comply with the court automation and reporting requirements creates a hardship on the individual.

B. On the expiration of all contracts that are in existence on July 1, 2007, between the court and a defensive driving school provider, an eligible individual who elects to attend a defensive driving school may attend any supreme court certified defensive driving school that complies with the court automation and reporting requirements. For the purposes of this subsection, the renewal of any contract between a court and a defensive driving school after July 1, 2007, shall be considered a new contract.

C. A court may adopt requirements for a school to electronically report school completions and to transfer funds, subject to the approval of the defensive driving board.

D. A law enforcement officer or a jurisdiction issuing a civil traffic citation to an individual shall provide notice to the individual that if eligible, the individual may attend any supreme court certified defensive driving school subject to subsection B.

E. A court shall not promote or favor any supreme court certified defensive driving school over another, except that the notice provided pursuant to subsection D may exclude a school that does not comply with the court's automation and reporting requirements pursuant to subsections B and C.

(5) Have services provided only by a school certified by the supreme court;

(6) Have a written contract with each primary provider and upon the expiration or cancellation of each primary provider contract in existence on July 1, 2007, notify the division staff of the expiration or cancellation of the contract;

(7) Provide a person with a written court order specifying the violation date, citation and any special conditions if a judge orders a person to attend a school other than as diversion. The order shall include the fine if the court fines a person for the violation;
(8) Pursuant to A.R.S. § 28-3392(A)(1), provide division staff with an update of the local ordinances eligible for diversion two times per year;
(9) Accept notification of an eligible offender's completion of a defensive driving course only from a certified school;
(10) Pursuant to ACJA § 7-201(H)(1), notify division staff regarding any acts of misconduct or violations of the statutes, ACJA § 7-201, this section or court rules by a certified school or instructor;
(11) Designate court staff to:
(a) Oversee the method of providing bond card information for traffic citations and ensure it contains the following:
(i) A statement indicating an offender, if eligible to attend a defensive driving course for diversion, may attend only a supreme court certified school;
(ii) The internet address for the AOC's website containing the list of supreme court schools an offender may attend;
(iii) The AOC's toll free telephone number for access of information regarding supreme court schools an offender may attend, for offenders without access to the Website; and
(iv) A statement the offender shall complete the course at least seven days prior to the court arraignment day;
(b) Correct registration or completion records within three business days of system notice or discovery.

d. The presiding judge of the justice, juvenile or municipal court shall not:

(1) Order any ineligible offender to attend a diversion program for dismissal of a violation;
(2) Permit any court official or employee to accept, either directly or indirectly, any compensation or incentive to enroll any person in any school;
(3) Except as provided in subsection (D)(6)(e)(4), permit school personnel to perform any judicial or court staff functions;
(4) Permit school personnel direct access to court records other than read only access to electronic records;
(5) Permit school personnel access to areas within the court not normally accessible to the public; and

e. The presiding judge of each justice, juvenile and municipal court, subject to the approval of the presiding judge of the superior court, may:

(1) Change the court diversion fee up to two times each year, effective either on April 1 or October 1, or on both dates. A court shall notify division staff by March 1st for the April 1st effective date and by September 1st for the October 1st effective date of

the court diversion fee to be assessed for each six-month period. This notice shall be filed regardless of whether the court changes the fee or retains the current fee, using the form provided by division staff. A notice of a change in a court diversion fee that is received after March 1st for the April 1st effective date, or after September 1st for the October 1st effective date, will not take effect on April 1st or October 1st, respectively, but will be delayed six months until the next change date. Citations and violations issued prior to the effective date of the change in the diversion fee shall be charged under the amount in effect on the date of violation; and

(2) Waive the court diversion fee assessed an individual attending a defensive driving course.

(3) Pursuant to A.R.S. § 28-3393(C) and subsection (D)(5)(b), prepare and submit a written request to the board for review and approval of the court's automation and reporting requirements. This request shall be submitted on a form provided by the board and shall identify the specific automation and reporting requirements of the court and why these requirements are different from the statewide automation standards adopted by the supreme court for the transmission of defensive driving information. If the board approves the court's automation and reporting requirements, the presiding judge shall allow eligible offenders to attend any school the board has determined meets the court's approved automation and reporting requirements.

(4) Issue an administrative order, authorizing schools to grant continuances to students under specified conditions. If the presiding judge issues an administrative order, the presiding judge shall provide a copy of the administrative order to the AOC within five days and the AOC shall provide this information to the schools. The administrative order shall:

(a) Authorize all schools to grant continuances and will not limit this authority only to specified schools;

(b) Authorize schools to grant continuances in all cases and will not permit schools to decide whether to grant a continuance on a case by case basis;

(c) Specify that certified schools may grant only one continuance per case and the number of days for a continuance;

(d) Specify that a continuance applies to the court arraignment date and if a continuance is granted, the student shall complete the defensive driving course at least seven days prior to the new court arraignment date;

(e) Specify that certified schools may not grant a continuance if the request is less than seven days prior to the arraignment date, but shall instead, direct the student to the appropriate court; and

(f) Specify the effective date of the administrative order. The effective date shall be no less than ten days from the date the order is signed.

7. Fund. A.R.S. § 28-3398(A) establishes the defensive driving school fund consisting of the monies collected from the fee established by the supreme court pursuant to A.R.S. § 28-3397(A). Pursuant to A.R.S. § 28-3398(B), one of the purposes of the fund is "subject to legislative appropriation, to supervise the use of defensive driving schools by the courts in this

state and to expedite the processing of all offenses prescribed in chapters 3 and 4 of this title." Further, A.R.S. § 28-3398(C) provides: "The fund established in this section is not subject to reversion. On notice from the supreme court, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund."

E. Initial Certification. In addition to the requirements of ACJA § 7-201(E), the following requirements apply:

1. Eligibility for Certification as a School. An applicant for certification as a defensive driving school shall:

   a. Provide proof of citizenship or legal status for every owner, principal, officer, director or shareholder.

   b. Provide an indemnification statement and conflict of interest statement signed by an owner or officer with the appropriate authority on behalf of the applicant.

   c. Provide an affirmation of eligibility, evaluation form and completion certificate or receipt.

   d. Fully disclose all relationships to any parent company or organization and currently paid or unpaid officers, directors, owners and boards of directors and any and all company subsidiary dba's operating in any state.

   e. Declare a statutory agent in Arizona.

   f. Obtain any necessary federal and state tax identification numbers as required by law.

   g. Provide a copy of all third party contracts regarding any operational or financial proceedings with the application. The applicant shall not contract with a third party to complete or issue completion certificates. Incidental operations such as telephone, copying, or Internet services are not subject to this requirement.

   h. Purchase and maintain general liability insurance that meets the following conditions:

      (1) Incidental malpractice with a minimum combined single limit of $1,000,000 per occurrence;
      (2) The policy shall name as additional insureds the state of Arizona, supreme court and any superior or limited jurisdiction court with which the applicant will provide defensive driving school services and their officers, agents and employees;
      (3) The insurer shall hold a valid license to do business in the state of Arizona with minimum ratings as specified by the Arizona Department of Administration; and

(4) If the applicant is part of a self-insured government entity, the applicant shall submit documentation from the government entity stating the applicant's coverage.

i. Designate a principal with whom division staff may communicate on any administrative, procedural or operational issues and who will have certain responsibilities pursuant to subsection (F).

j. Provide articles of incorporation and letters of good standing from the Arizona Corporation Commission or the Secretary of State, or if the applicant uses ADM, from comparable entities of the state where the business is incorporated or licensed.

k. File a defensive driving course curriculum only by electronic means. Pursuant to A.R.S. § 28-3395, the time allowed for the course, including testing, reviewing and grading of any test, but not including time for completion of an evaluation form, shall not exceed 270 minutes nor be less than 240 minutes. Defensive driving courses shall be presented in an interactive format throughout the course. ADM courses shall indicate to the student the timeframe for completion begins when the student logs into the course. An ADM school shall require students to complete and pass the course participation test. In addition, an ADM or traditional school may require a student to complete a course content review. All applicants for certification shall include, at a minimum, the following Arizona specific educational and behavioral modifications:

(1) Collision prevention, including:
  (a) Vehicle maintenance; and
  (b) Recognition of physical, sensory and mental limitations and disabilities, including:
    (i) Fatigue;
    (ii) Stress;
    (iii)Attitude and road rage; and
    (iv)Inattention and distractions.
(2) Practical defensive driving techniques:
  (a) Reaction time and following distances;
  (b) The importance of driving safely in adverse conditions; and
  (c) Proper vision techniques, including:
    (i) Scanning;
    (ii) High aim; and
    (iii) Blind spots.
(3) Use and importance of safety systems including:
  (a) Seat belt law and usage;
  (b) Crash forces and fallacies of not wearing seat belts;
  (c) Child restraint law and proper usage;
  (d) Air bags; and
  (e) Anti-lock braking systems.

(4) Alcohol and drug use including:
  (a) DUI laws, penalties and implied consent;
  (b) Degree of impairment;
  (c) Zero tolerance; and
  (d) Underage drinking and driving.
(5) Major traffic laws of Arizona and local ordinances, including:
  (a) Speeding;
  (b) Obeying traffic control devices;
  (c) Passing;
  (d) Intersections, lane changes and turning;
  (e) Stopping and yielding;
  (f) School crossings;
  (g) School buses and emergency vehicles;
  (h) Pedestrians and crosswalks, marked or unmarked; and
  (i) Major criminal traffic violations.
(6) If an ADM course, the examination shall consist of twenty-five course participation and identity verification questions having a maximum 30 second timeframe to respond to each question.
(7) If an ADM course, the course participation examination shall:
  (a) Have a pass rate of 80 percent; and
  (b) Only be included with the on-line course.

l. File an administrative, operational and financial procedures manual detailing the applicant's processes for compliance with all Arizona statutes, ACJA § 7-201, this section and court or local rules. Once approved, a school may not change the procedures until the school obtains approval from the board.

m. Establish an accounting and recording system ensuring accurate reporting of all transactions relative to the receipt of court diversion, state fees and state surcharges providing sufficient documentation for audit purposes.

n. Establish a cash receipts procedure including use of pre-printed, consecutively numbered receipts or receipts consecutively numbered by an automated system and issued to each student from whom a defensive driving fee is collected. These procedures shall result in compliance for the timely disbursement of all court diversion, state fees and state surcharges pursuant to subsections (F)(27) and (F)(28).

o. If the applicant is an ADM school, contract with at least one Arizona certified defensive driving instructor.

p. Provide the name of the instructor the applicant intends to instruct the classroom approved curriculum, or if an ADM school, the name of the instructor the school has employed or contracted with for student contact.

q. Develop an instructor training seminar.

r. Present a demonstration of the defensive driving course curriculum by the applicant's owner, principal or instructor to division staff. The demonstration shall:

(1) Include all elements and intended delivery formats as proposed in the applicant's curriculum program, including the ADM defensive driving course examination;
(2) Make evident the owner, principal or chief instructor understands the curriculum and the curriculum is accurate and created for the state of Arizona's traffic laws; and
(3) If the curriculum contains materials that are not original to the applicant or in the public domain, the applicant shall provide written authorization for the use of the materials.

s. Correct any deficiencies noted by the division staff in the curriculum or authorization of use of materials and present a second demonstration if requested by division staff to qualify for certification.

t. Designate at least one individual to receive training from division staff on the operational requirements of the defensive driving database.

u. Exhibit a proficiency in the operation of the defensive driving database prior to certification and obtain signed verification by division staff of that proficiency.

v. Provide a copy of the refund policy to division staff for approval to ensure compliance with refund policies of this section.

w. Provide proof the applicant has a secured website when collecting confidential information from students.

x. If an ADM applicant, provide documentation of processes regarding:

(1) Identification of a student's cheating or dishonesty;
(2) Student failure of identity verification questions; and
(3) Student failure of course participation questions.

2. Eligibility for Certification as an Instructor. In addition to the requirements of ACJA § 7-201(E), for qualification as an instructor, an individual shall:

a. Be at least 21 years old.

b. Have a high school diploma or general equivalency diploma.

c. Be a legal resident or citizen of the United States.

d. Hold a valid driver license issued by the state of residence.

e. Pass a certification examination testing the applicant's knowledge, skills and abilities as an instructor.

f. Attach a certified current 60 month motor vehicle record to the application.

g. If the applicant is currently serving as an active law enforcement officer where any portion of their duties includes the authority to issue citations, the applicant may submit a completed application only if the applicant has obtained a waiver from the presiding judge of the superior court in the county where the applicant is instructing, allowing the officer to serve as an instructor.

3. Time Frames for School Certification.

a. An applicant for certification shall respond timely to requests for additional information from division staff pertaining to the applicant's initial application and curriculum, pursuant to ACJA § 7-201(E)(3)(b).

b. An applicant for certification as a defensive driving school shall have one year from the date division staff received the original application to complete the initial certification process. 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, but not limited to, letters of good standing, disclosure of relationships, third party contracts and fees. The applicant shall submit a new application, supporting documents and fees after the time frame has lapsed.

c. If the applicant needs additional time to comply with division staff requests to complete the application process, including revisions of curriculum, the applicant shall file a written request with division staff for an extension of time to complete the application process. The request shall state the reasons for additional time to comply with the time frames and certification requirements. Division staff shall forward the written request for an extension of time to the board to review at the next regularly scheduled board meeting. Requests for extension of time to complete the application process do not constitute an emergency board meeting.

d. If the board denies additional time to complete the application process, the applicant shall re-apply with all costs and fees as an initial applicant.

4. Decision Regarding Certification for Schools or Instructors. In addition to the requirements of ACJA § 7-201(E) the following requirements apply:

a. The board shall deny certification of an applicant for certification as an instructor if the applicant has received:

(1) A suspension or revocation of the applicant's driver license in any jurisdiction, within the 60 months preceding the date the applicant files for certification;
(2) A criminal conviction involving vehicle operation in any jurisdiction, within the 60 months preceding the date the applicant files for certification; or
(3) More than one civil traffic moving violation of the applicant's driver license in any jurisdiction, within the 24 months preceding the date the applicant files for certification.

b. The board may refuse to certify any applicant for certification as a school if:

(1) The applicant conducts business under a trade name which implies a course other than the teaching of a defensive driving course;
(2) The applicant offers a premium, prize, food, lifestyle, entertainment or other inducement for selecting the school, other than the legal diversion or mitigation of a traffic citation; or
(3) The applicant fails to resolve a conflict of interest, as described in this subsection:
(a) Certification as, or operation of, a school by a public agency or an employee of a public agency, where the employing public agency has within the regular scope of duties the power to cite individuals for minor moving violations, to influence the resolution of citations for minor traffic violations, or otherwise control, advise, solicit, or order the attendance, or potential attendance of individuals in a school. This limitation on certification or operation of a school by public agencies or employees of public agencies does not preclude law enforcement officers from acting solely as employed or contracted instructors for schools provided the provisions of subsection (E)(2)(g) are met;
(b) Certification as, or operation of, a school by a public agency or an employee of a public agency which or who is in a position to derive a profit or fund the agency's or person's own activities from the use of its facilities or employees in the presentation of a defensive driving course;
(c) Employment by a school, either for pay or as a volunteer, of any employee of a public agency who has within the regular scope of the employee's duties the power or ability to control, advise, solicit, or order the attendance of individuals in a school, or who is in a position to derive a profit or fund the public agency's activities from the use of the public agency's facilities and employees to further the presentation of a school's defensive driving course;
(d) Compensation of, or offering incentives to, a court employee, either directly or indirectly, to enroll students in a school or for selection of a specific school;
(e) Employment as a volunteer or paid employee, or compensation of any court officer or employee, to operate, instruct or provide any service to a school; or
(f) Any other perceived or actual conflict of interest or appearance of impropriety.

c. Denial of certification. These requirements are contained in ACJA § 7-201(E).

d. Eligibility for application after denial. These requirements are contained in ACJA § 7-201(E).

F. Role and Responsibilities of Certificate Holders. In addition to the requirements of ACJA § 7-201(F), each school shall:

1. Adhere to the standards in the code of conduct in subsection (J).

2. Assume responsibility for all operational aspects of a school including any elements or functions performed by third-party contractors. Any actions by non-certified third-party contractors constituting allegations of acts of misconduct or violations of ACJA § 7-201, this section, or any other court policy or rule are the responsibility of the school. The school is subject to disciplinary action as provided in ACJA § 7-201(H) and this section for any acts of misconduct or violations by third-party contractors.

3. Maintain a statutory agent in Arizona.

4. Notify division staff of any change in the telephone number, business address, mailing address or home address of principals, officers and owners of the school or any other required database information within three business days of the change. The designated principal of the school shall notify division staff through the defensive driving email system or in writing, utilizing the form provided by division staff.

5. Designate a principal who holds contracting authority for the school, with whom division staff can immediately make contact concerning any process or procedure of the school or court operation. The principal shall:

   a. Prepare and submit, with the initial school application, a list of all instructors or applicants for certification and staff members requiring access and training for the defensive driving database.

   b. Actively and directly supervise all instructors and staff who have access to the defensive driving database to ensure compliance to all Arizona statutes, ACJA § 7-201 and this section.

   c. Ensure all employees receive initial and continued training as needed for proficiency in the ACJA processing requirements and defensive driving tracking system.

   d. File with division staff, by December 1st of each year, a list of all instructors and staff of the school who have access to the defensive driving database, as of October 31st of that year.

   e. Notify division staff within seven days if an instructor or staff member with access to the defensive driving database leaves the employment of the school.

f. Require a newly employed or contracted instructor of a traditional classroom school to attend at least two courses regarding the employer school's curriculum and teach one class under the supervision of the principal or the principal's designated instructor.

g. Provide a list of sites to division staff where defensive driving courses are available for students and disclose if the course is a traditional classroom or ADM format. The principal shall also provide division staff with a list of instructors' schedules in a specified electronic or other format and update it as often as necessary to ensure accuracy. The school offering ADM courses shall provide division staff with a schedule of technical staff and instructors available to answer any student questions, within the allowable time frames of the course presentation.

h. Provide division staff with any proposed new third-party contracts after initial certification for review by staff and approval by the board. The staff shall submit this information to the board for review and approval at the next regularly scheduled meeting of the board.

i. Provide information to division staff on any proposed modification or cancellations of previously approved third party contracts. The staff shall submit this information to the board for review and approval at the next regularly scheduled meeting of the board.

j. If an ADM school, ensure instructors are available to provide answers for any student inquiries within 24 hours and ensure staff is available to correct technical and operational system errors within 24 hours of being reported.

k. Provide the total school fee to attend the school's course in any and all information or materials provided to students, including the school's website. This total fee must be inclusive of all fees and costs assessed and retained by the school for the student to attend and complete the school's course. This total fee must be provided to the student prior to registration. The school shall provide the total school fee information in a conspicuous area on the school's web site or published materials in a manner that is readily noticeable to the public.

l. A defensive driving school shall post on the opening page or opening Arizona page of their internet website the following information:
   (1) The total cost to attend defensive driving for diversion;
   (2) The school's total fee to attend reflecting all fees the school may charge;
   (3) The court diversion fee;
   (4) The State surcharge;
   (5) The State fee;
   (6) The eligibility requirements to attend a defensive driving school;
   (7) The instruction that a student must complete the course 7 days prior to their arraignment date;

(8) The violations eligible for defensive driving diversion or a link to the Supreme Court website listing eligible violations;
(9) A list of the information required for course registration:
(a) Traffic citation;
(b) Government issued identification;
(c) Payment to be made prior to the start of class or program;
(10) The class or program instructional times;
(11) School refund policy; and
(12) Link to the Supreme Court's website and toll-free telephone number to further assist the public.

m. Report the school fee up to two times each year, effective either on April 1st or October 1st, or on both dates. A school shall notify division staff by September 1st for changes effective October 1st and by March 1st for changes effective April 1st regardless of whether the school changes the fee or retains the current fee, using the form provided by division staff. Any notice received from a school after the March 1st deadline will not take effect on April 1st but will be delayed until the next change date on October 1st. Any notice received from a school after the September 1st deadline will not take effect on October 1st but will be delayed until the next change date on April 1st.

n. If an ADM school, ensure the examination is included in the online course; and

o. In addition to the provisions contained in ACJA § 7-201(H)(6)(c), a certificate holder is subject to disciplinary action if the board finds the certificate holder has failed to cooperate with or supply information to any court or court staff by the time specified in any request.

6. At the discretion of the school, in any proceeding under Arizona statutes, ACJA § 7-201 and this section, the principal may represent the school entity.

7. File any report with the State of Arizona as required by law, court rule, ACJA § 7-201 or this section.

8. Maintain the confidentiality of all records regarding student personal and financial information and only transmit confidential information by U.S. Post, facsimile, or secure electronic file. A school shall house technical facilities (ISP host, data storage and support systems) and shall ensure all information is not accessible to unauthorized parties. The information contained in the defensive driving database is not a public record and is confidential. Certificate holders shall not access the database for any purpose other than to verify students' eligibility or to record students' registration, payment, or completion information. Accessing the database for the purpose of sale or resale or for the purpose of producing a document containing all or part of the database for sale or the obtaining of names and addresses from the database for the purpose of solicitation or the sale of such names and addresses to another for the purpose of solicitation or for any purpose in which

the purchaser can reasonably anticipate the receipt of monetary gain from direct or indirect use of such information is prohibited.

9. Disposal of records does not relieve the certificate holder from the responsibility of maintaining the confidentiality of all records. Disposal or destruction of records shall be conducted in a manner that renders students' personal and financial information illegible.

10. Present the curriculum and materials approved by the board in defensive driving courses.

11. Develop and prepare to offer a version of the curriculum, as approved by the board, in response to a request for accommodations under the Americans with Disability Act.

12. Follow detailed written administrative, operational and financial procedures. If the school is a multi-purpose agency, it shall establish separate records and procedures for the reporting of revenue receipts, disbursement of funds and any other financial transactions for the school portion of the agency.

13. Provide each registering student information regarding the school's refund policy prior to any payment of fees or registration in the course.

14. Not co-mingle any defensive driving diversion or state fees with any school or business operating fees or accounts.

15. Ensure procedures and records conform to generally accepted accounting principles and the minimum accounting standards adopted by the supreme court.

16. Collect the court diversion fee, defensive driving, judicial collection enhancement fund fee, and state surcharge, plus any fee charged by the school for the defensive driving course, before an individual begins any type of defensive driving course.

17. Issue an original completion certificate only to a student who:

    a. Provided proper identification;

    b. Signed the eligibility affirmation;

    c. Accepted the school refund policy;

    d. Provided a copy of the citation or court order;

    e. Paid all fees;

f. Passed the identity verification and course participation questions if an ADM course; and

g. Completed the defensive driving course.

18. Ensure each student who takes an examination following a defensive driving class receives notice of passing or failing the examination within 24 hours of the conclusion of the examination.

19. Collect and remit all court diversion fees to each court as required by A.R.S. § 28-3396(C) and this section. Once a student begins a defensive driving course with a school, the school is responsible for payment of fees regardless of whether the fee has been collected from the student. The school shall hold the diversion fees in trust for the courts until disbursed.

20. Transmit all required reports and data concerning the student and traffic ticket for which the fees are collected, according to the approved reporting procedures pursuant to subsection (F)(25).

21. Collect and remit the 45 dollar surcharge imposed pursuant to A.R.S. § 28-3396. The school shall remit this state surcharge to the AOC. Upon receipt, the AOC shall transmit the state surcharge to the state treasurer for deposit, pursuant to A.R.S. §§ 28-3396, 35-146 and 35-147. The school shall hold the state surcharge in trust for the state treasurer until remitted to the AOC, and shall follow the schedule specified in subsection (F)(28) for remittance to the AOC.

22. Collect and remit all state fees and the required reports concerning the student and traffic ticket for which the fees were collected, or a "negative state fee report" if no state fees were collected. The school shall hold the state fees in trust for the supreme court until disbursed.

23. Submit the school's schedule of future classroom defensive driving courses within fourteen days of the date of the scheduled defensive driving course. The schedule shall include the date, start and end time, instructor name and location of each defensive driving course. The school shall immediately notify division staff of any changes to the school's schedule, such as instructor changes or class cancellations. The school shall make notification to the division staff through the defensive driving email system.

24. Traditional classroom defensive driving schools shall conduct a minimum of one class per month in a county to maintain the school's listing on the defensive driving web site and toll free phone lines for that Arizona county. If a school does not provide at least one class in a month in the specified county, division staff shall, beginning the following month, revise the listing on the website and toll free phone line to remove reference to the school as providing services for that county.

25. Comply with the following requirements:

a. Report to the AOC for transmission to the court the following:

(1) Student registration reporting requirements:
(a) School certification number;
(b) Student name;
(c) Student date of birth;
(d) Student driver license number;
(e) Student driver license state;
(f) Citation number;
(g) Citation violation date;
(h) Violation type;
(i) Charge identifier;
(j) Registration type;
(k) Date student scheduled to attend class; and
(l) Court code number.

(2) Transmission of registration information:
(a) Schools shall transmit registration information to the AOC within three business days of the students registering.
(b) Schools shall, within one business day, resolve any rejected student registration and resend the corrected registration information to the AOC;
(c) Schools shall, if the registration information cannot be resolved in one day, contact the court of jurisdiction directly to resolve the rejected registration.

(3) Student completion reporting requirements:
(a) School certification number;
(b) Student name;
(c) Student date of birth;
(d) Student driver license number;
(e) Student driver license state;
(f) Citation number;
(g) Citation violation date;
(h) Receipt date of funds;
(i) Date student completed the course;
(j) Violation type;
(k) Program code;
(l) Completion type;
(m) Charge identifier; and
(n) Court code number.

(4) Transmission of completion information:
(a) Schools shall transmit completion information to the AOC within three business days of the student completing the course;
(b) Schools shall, within one business day, resolve any rejected student completion records and resend the corrected completion record to the AOC;

(c) Schools shall, if the completion information cannot be resolved in one day, contact the court of jurisdiction directly to resolve the rejected completion.

b. Access the defensive driving database correctly and accurately and:

(1) Maintain the proper hardware and software and the ability to connect and interface with the defensive driving database and update these as often as required by division staff to maintain efficient system function;
(2) Assume responsibility for all costs of equipment, telephone lines, contractor fees incurred to meet these requirements and maintain the system to comply with all statutory and ACJA requirements;
(3) Ensure the required data for state fees and defensive driving course completion is entered and all errors corrected, or an error correction requested, within one business day; and
(4) Report completions timely and accurately in order to process, on average, 98 percent timeliness and accuracy each quarter.
(5) Pay a processing fee, pursuant to subsection (K)(4)(e), for any individual the school allows to complete a defensive driving course when the individual was not eligible to attend a defensive driving class.

c. Conduct defensive driving courses and:

(1) Maintain class schedule directories as required pursuant to subsections (F)(5)(g) and (F)(23) on the same physical computer system that accesses the defensive driving database;
(2) Comply with all requirements of this section in the same manner for students attending an out-of-state defensive driving class; except the completion date for an out-of-state student is the date the receipt or completion certificate, required fees and documentation are received by the coordinating Arizona school;
(3) Ensure each student receives a minimum of four hours (240 minutes) instructional time and a maximum of four and one-half hours (270 minutes) of course time pursuant to A.R.S. § 28-3395.
(a) Instructional time does not include time spent for:
(i) identity verification;
(ii) participation in validation processes;
(iii)travel to and from a classroom or testing site; or
(iv)obtaining student evaluations.
(b) Course time includes:
(i) obtaining student evaluations;
(ii) any testing, review, or grading; and
(iii)providing students with their receipts or completion certificates.
(4) Present only the material contained in the school's board approved curriculum;
(5) Not use a defensive driving course as a forum for any purpose except the presentation of the approved course curriculum;

(6) Schedule adequate breaks in compliance with the Americans with Disabilities Act;
(7) Require the instructor remain in the classroom with the students during the full 240 minutes of instructional time; or when an ADM format is used, ensure instructors are available to provide answers for any student inquiries within 24 hours and ensure staff is available to correct technical and operational system errors within 24 hours of being reported;
(8) Limit attendance to only the number commensurate with student comfort in the classroom. This shall include adequate space and seating capacity for all students registered for the defensive driving course, heating and cooling and immediate access to drinking water and restroom facilities. In no case shall the number of students exceed 60 attendees per class.
(9) Ensure all classrooms meet all federal, state, county and local health, safety and building requirements, including the Americans with Disabilities Act; and are consistent with a learning and instructional environment in keeping with judicial decorum;
(10) Provide classrooms with adequate audiovisual equipment allowing all students to see and hear the presentation clearly, if audiovisual presentations are a part of the approved curriculum;
(11) Expel students from the class who do not comply with the classroom standards and the reasonable instructions of the school's staff. When a school expels a student from the classroom, the school shall make and retain a report explaining the circumstances and reasons for expulsion and copy the court of jurisdiction;
(12) Require students to complete an evaluation form in either a classroom setting or ADM format and forward the completed evaluations to division staff within five days of the request;
(13) Submit, for approval by the board, changes to any element of the school's currently approved defensive driving course presentation, including any materials or additions the certificate holder is proposing to the format or delivery of the course. The school shall obtain board approval for the changes prior to the course;
(14) If an ADM course, provide access and delivery of the course to ensure a student's completion falls within time frames pursuant to subsection (E)(1)(k) and court allowances. An ADM school shall allow a student to log in and out of the ADM course at will, provided the school complies with all provisions of subsection (E)(1)(k) and shall maintain an electronic record of the student's participation in the course, including the student's log-in and log-out times; and
(15) If an ADM course, correct any technical or system breakdowns within 24 hours of reporting by a student or discovery by the school.

d. Eligibility, Registration and Attendance of Students.

(1) To determine eligibility, the school shall:

(a) Pursuant to A.R.S. § 28-3392(B), only allow a person to attend a defensive driving school once within a twenty-four month period from the date of the last violation by querying the defensive driving database; and
(b) Verify the violation is:
(i) an eligible moving violation as specified by A.R.S. § 28-3392(A);
(ii) permitted by the court for diversion if an eligible misdemeanor;
(iii) not a violation resulting from a collision causing the death or serious physical injury of any person as defined in A.R.S. § 28-3392(C)(1);
(iv) not a violation which occurred when the offender held a commercial driver license;
(v) not a violation which occurred while operating a commercial motor vehicle that requires a commercial driver license; or
(vi) court ordered.

(2) A school may grant a continuance of the arraignment date if:
(a) the court has issued an administrative order pursuant to subsection (D)(6)(e)(4), authorizing the school to grant a continuance;
(b) it is a onetime occurrence;
(c) the school informs the student the number of days the court permits for the continuance and the date by which the student must successfully complete the defensive driving course; and
(d) the continuance is requested at least seven days prior to the arraignment date. A court may not authorize a school to grant a continuance and a school may not grant a continuance if the continuance is requested less than seven days prior to the arraignment date.

(3) In the materials provided to students, the school shall:
(a) Include phone numbers and e-mail addresses of the available school staff to allow students to receive answers to their questions quickly and efficiently; and
(b) Notify the student the course completion date is seven days prior to the court arraignment date on the citation.

(4) Each school shall:
(a) Require each student to show official identification prior to beginning a class and verify the registration information for accuracy against the official information by direct comparison. Acceptable forms of identification are limited to a government-issued driver license or identification card. Schools may retain a photocopy of each driver license;
(b) Require individuals who are court-ordered to attend a defensive driving class to provide the court order requiring attendance at the time of class attendance. The school shall retain a copy of each court order;
(c) Collect and retain a copy of the individual's citation to permit verification of data and eligibility and furnish the citation on request to division staff;

(d) Provide an explanation to each individual enrolling in a defensive driving course of the provisions and implications of signing the affirmation of eligibility and require the individual to read and sign the affirmation of eligibility prior to beginning any defensive driving course for dismissal of a traffic citation;
(e) Provide students who complete a defensive driving course with a receipt or completion certificate including, at a minimum, the following information:
(i) name of the student;
(ii) date of the class;
(iii) court of jurisdiction;
(iv) citation or docket number for dismissal;
(v) name of the school; and
(vi) the school's authorized signature.
(f) Complete all required information on each certificate prior to delivery to the student;
(g) Not issue a completion certificate or receipt to any student who has not signed the affirmation of eligibility;
(h) Not accept any student who has not registered and been prescreened through the eligibility process of subsection (F)(25)(d)(1) for the class and attempts to participate as a walk-in; and
(i) A school shall not allow a third party to complete or issue a certificate of completion.
(5) The ADM school shall:
(a) Use the same methods for determining individual and citation eligibility pursuant to subsection (F)(25)(d);
(b) Make a positive identification of the individual enrolled in the defensive driving course, at the time of delivery of the course materials, by demonstrating the individual registered for the course is the actual participant during the time the course is taken and completed;
(c) Obtain and keep on file a copy of the student's citation or court order prior to the student beginning an ADM course. A school may accept citations by fax, mail, or via electronic means;
(d) Schedule system outages for server maintenance and upgrades and post advanced notice on the website, accordingly;
(e) Notify students immediately of technical difficulties as they arise, including an estimate of the length of time the system may be unavailable;
(f) Maintain a record of validation and course content questions and dates the examination was given for two years;
(g) Maintain a record of each question and whether it was answered correctly, incorrectly, or not at all;
(h) Maintain, for three years, a complete electronic record of each student's participation in the defensive driving course including student log-in and log-out times;
(i) Maintain evidence the student engaged in active participation during the presentation of the course;

(j) Not allow a retest when a student fails the course participation portion of the examination;
(k) Maintain a record of each student's course participation and identity verification test results for three years;
(l) Immediately refer any student caught cheating or being dishonest in participating in the course or examination to the court of jurisdiction;
(m) Refer a student who fails the examination twice to the court of jurisdiction or to a traditional classroom course, time permitting;
(n) Provide a student who fails the examination twice with specific written instructions for the process of registering for a classroom course, and documentation to provide to the classroom school reflecting the student's failure of the online examination; and
(o) Not issues a student participating in an ADM course a certificate of completion unless the student correctly answered the required number of course participation and identity verification questions.

(6) Correct, or request division staff to correct, a registration record within three business days of system notice or discovery. A school shall correct the following types of registration errors without division staff assistance:
(a) Citation number;
(b) Violation type;
(c) Charge identifier; and
(d) Court code number.

26. Out of State Offenders.

a. A school shall coordinate the defensive driving attendance and completion of eligible offenders who receive an Arizona violation and are authorized by a court to attend an out-of-state program. Coordination shall include:

(1) Verification of the individual's eligibility prior to attendance;
(2) Collection and retention of all student data and an affirmation of eligibility;
(3) Reporting registration information pursuant to subsection (F)(25);
(4) Collection and disbursal of court diversion fees, state fees and state surcharges as required by this section;
(5) Reporting of required data to the defensive driving database for an out-of-state student who completes a defensive driving course pursuant to subsection (F)(25);
(6) Notification to the jurisdictional court of the student's completion and any other reports required by that court in connection with a student attendance; and
(7) Providing each out-of-state student with information regarding the student's responsibilities regarding attendance requirements.

b. A student shall provide satisfactory evidence of course completion seven days prior to the court arraignment date issued on the citation and shall comply with all applicable requirements and policies of statutes, this section and court or local rules.

c. The completion date for an out-of-state attendee is the date a copy of the receipt or valid completion certificate and all required fees are received by a school.

d. A school shall require and retain reasonable evidence the individual taking the out-of-state course is the same individual named on the Arizona violation. The school shall make a positive check of the individual's driver license at the time of the defensive driving course in a classroom setting or if an ADM course, upon delivery of materials to the individual, and notarization by jurat of the required documents.

27. Accounting Systems. A school shall comply with the following accounting and recording requirements:

a. Maintain an accounting and recording system ensuring accurate reporting of all transactions relative to the receipt of court diversion fees, state fees and state surcharges, providing sufficient documentation for audit purposes.

b. Maintain a cash receipts procedure including use of pre-printed, consecutively numbered receipts or receipts consecutively numbered by an automated system and issued to each student from whom a defensive driving fee is collected. Receipts shall provide the following information:

(1) Student's name;
(2) Receipt date;
(3) Amount received;
(4) Name of the individual making the payment;
(5) Identification of the individual receiving the payment;
(6) Method of payment;
(7) Sequential receipt number; and
(8) Name of the school.

c. Maintain a cumulative record of each individual who has prepaid for a defensive driving course but has not attended. A school shall handle all prepaid fees in accordance with this section and hold them in trust in a non-interest bearing account for the courts and state treasurer until disbursal on the prescribed schedule or until an approved refund is issued to the individual pursuant to this section.

d. Not enter student completion records in the defensive driving database in advance, nor enter a student record for any individual who has not actually completed an approved defensive driving course.

e. Retain all records related to a student's attendance or otherwise required by this section a minimum of three years. Each student record shall include the following information:

(1) Receipt number;
(2) Student's complete name, address, date of birth, and license number;
(3) Citation information, including the number, charge number, court code, violation code and violation date;
(4) Receipt date;
(5) Amount received;
(6) Method of payment;
(7) Identification of the individual accepting the payment;
(8) Date and location of class assignment;
(9) Date the student completed the defensive driving course;
(10) Program code;
(11) Violation type;
(12) Location of class (in state or out of state);
(13) Copies of any applicable court order and other information significant to the record;
(14) Type of defensive driving course, if not a classroom course; and
(15) Issuing court.

f. Enter all required completion information on the defensive driving database no later than three business days after the date of each defensive driving course for each student who completed a course.

g. Enter a state fee record on the defensive driving database for any student who pays for a defensive driving course but does not complete the course within that payment period.

h. Enter a state fee record for any student who did not complete a defensive driving course no later than seven days after the end of either of the payment periods in which the fee was collected.

i. Correct, or request division staff to correct, a state fee or completion record within three business days of system notice or discovery. A school shall correct the following completion record errors without division staff assistance:

(1) Date student competed the course; and
(2) Violation type.

j. Maintain a checking account for court diversion and state fees for the sole purpose of preventing any co-mingling of school operating monies, fees from any court diversion and state fees or state surcharges until disbursed to the appropriate court.

k. Maintain procedures resulting in compliance for the timely disbursement of all court diversion fees, state fees and state surcharges pursuant to subsection (F)(28).

28. Remittance and Reporting of Court Diversion, State Fees and State Surcharges. A school shall comply with the following requirements regarding remittance of fees to the appropriate court and reporting requirements:

a. Maintain a remitting and reporting system ensuring accurate transmission of court diversion fees, state fees and state surcharges providing sufficient documentation for audit purposes. Division staff shall pre-approve any change in the remitting or reporting system.

b. Deliver electronic state fee and state surcharge remittance reports to division staff in the required format, on or before the payments due date, pursuant to subsection (F)(28)(e). The school shall retain electronic reports in an accessible format until the school receives confirmation from division staff the information is usable, complete, accurate and reconciled.

c. Deliver state fee and state surcharge remittance reports to division staff in the required format, on or before the payment due date, pursuant to subsection (F)(28)(e).

d. Report general student and payment information and defensive driving course completion data directly to the defensive driving database in either an on-line or batch basis.

e. Remittance reports shall provide detailed records on each student the school is reporting; aggregate numbers are not acceptable. The report shall ensure a state fee and state surcharge is remitted for each student whose name appears on the remittance report. A school shall remit all state fees and state surcharges in compliance with the following:

(1) "Pay Period A" fees shall be received between the first through the 15th of the month by the 22nd day of that month;
(2) "Pay Period B" fees shall be received between the 16th through the 31st of the month by the seventh day of the following month;
(3) Submit a separate remittance report for each of the following categories:
(a) Individuals who completed the defensive driving course and the state fees and state surcharge are remitted for the pay period;
(b) Individuals who registered but did not complete a defensive driving course and the state fee and state surcharge were collected in the pay period;
(c) Individuals who completed the defensive driving course and the state fee and state surcharge were paid in a prior pay period; or
(d) If no payment is due to the supreme court, the school shall prepare and submit a non-state fee and non state surcharge report.

f. A school shall transmit all diversion fees to the appropriate court in compliance with the following:

(1) The school shall submit a remittance report with the fees. The report shall contain the following information:
   (a) Name of each court to which a payment is made;
   (b) Payment date;
   (c) Amount of the payment;
   (d) Check number;
   (e) Information on the individual who completed the defensive driving course:
      (i) Complete name;
      (ii) Birth date; and
      (iii) Driver license number;
   (f) Citation number;
   (g) Violation date;
   (h) Violation;
   (i) Date of defensive driving course completion, if applicable; and
   (j) School name and number.

(2) The school shall transmit the court diversion fees and the remittance report to the court once a week and within eleven (11) days of the successful completion of the class.

(3) The school shall transmit the court diversion fees and the remittance report only for those students who have successfully completed the defensive driving course and the completion record has been successfully transmitted to the AOC. Pursuant to subsection (F)(28)(c), the school shall hold the court diversion fees in trust for any student who has registered and paid the fees but not yet completed the course.

g. A school shall submit diversion fee information to division staff, but may submit copies of checks or receipts instead of the court remittance diversion fee report pursuant to subsection (F)(28)(f).

h. Notify division staff and the court of jurisdiction of any student who completes a class but was not eligible for diversion and include in the notification the reasons the school failed to prevent the attendance. This requirement does not apply to students who are court-ordered pursuant to statute, when the court order is issued prior to the defensive driving course attendance.

i. Within three business days, replace any checks disbursed to any court or the state treasurer returned by the bank for insufficient funds and add all returned check charges incurred by the school to the replacement check.

29. Reconciliation System. A school shall comply with the following financial and reporting requirements:

a. Reconcile and balance all collected fees on a daily basis and account for the remainder in the account at all times.

b. Reconcile the monthly bank statement for the court diversion, state fee and state surcharge checking account including:

(1) Aggregate receipts for the month shall match the aggregate deposits; and
(2) The month-end checking account balance shall match the unpaid amounts owed to the courts.

c. Investigate on a monthly basis all disbursement checks outstanding for more than six months-and if a check is outstanding the school shall:

(1) If the payee is a court or the state treasurer, notify the court or state treasurer, as applicable, of the outstanding check, cancel the outstanding check and reissue a new check, if necessary;
(2) If the payee is a student to whom a refund is owed, send a letter to the payee's last known address advising the payee the check has not been cashed;
(3) If the student payee responds the check is lost, cancel the outstanding check and issue a new check; or
(4) If the student payee does not respond within 30 days or cannot be located, cancel the outstanding check and issue a check to the supreme court. The supreme court shall process the unclaimed refund according to state law.

d. A school shall correct errors to state fee, state surcharge and completion records or submit a request for correction to division staff within three days of receiving notice from the system of the error or three days after discovery.

e. Ineligible completion processing fee. The division director may assess an ineligible completion processing fee of $20, for payment by the defensive driving school, if the school permits an ineligible student to complete a defensive driving course.

(1) The division director shall notify the school in writing of the decision to impose the ineligible completion processing fee, the amount imposed, and the list of ineligible completion reports that are the basis for the fee.
(2) A school may request the board review the division director's decision to impose an ineligible completion processing fee by filing with the board a written request within 20 days after the school is notified of the division director's decision. In its written request for review, the school shall submit a copy of the notice received from the director and the school's grounds for objecting to the division director's decision to impose the fee. The board shall not consider any grounds that are not included in the school's written request for review.
(3) Payment of the ineligible completion processing fee is suspended until the determination of the request by the board.
(4) At the next regular board meeting, the board shall review the written request of the school and the documentation supporting the division director's decision to assess

the ineligible completion processing fee. The board may also permit a representative of the school to appear and answer any questions regarding its request for review.

(5) Upon review, the board shall either uphold or reverse the division director's decision.

(6) Division staff shall deposit all processing fees paid for ineligible student reports pursuant to this section in the Defensive Driving Fund.

f. Reconcile any insufficient fund checks and charges to the replacement check.

30. Refunds.

a. Once a person begins a defensive driving course, classroom or ADM, the state fee, court diversion fee and state surcharge are non-refundable except as set forth in this subsection. An ADM school shall not refund the state fee or state surcharge for any student failing the required test but shall forward the state fee and state surcharge to the supreme court. A school may refund other registration fees pursuant to its own guidelines, or at the direction of a court. A school shall provide a student with its refund policy prior to accepting the fees from the student.

b. A school shall provide a refund of court diversion, state fees and the state surcharge when:

(1) A student pre-pays for a defensive driving course, does not begin the course and does not contact the school to reschedule for a future course. The school shall refund the court diversion fee, state fee and state surcharge 30 days after the scheduled defensive driving course date or upon notification from the student the student will not attend a course, whichever is first;

(2) An officer fails to file a citation with a court and the cited person attends a defensive driving course for that citation. Upon notification by the jurisdictional court, the school shall notify division staff a refund is requested. Upon written approval by division staff, the school shall refund the court diversion, state fee and state surcharge to the student; or

(3) A citation is dismissed by a jurisdictional court on its own motion, for technical problems not correctable under civil traffic rules of court.

c. Refund of the court diversion fee, state fee or the state surcharge shall result in restoration of the student's eligibility for a defensive driving course.

d. Refund of state fees and state surcharges to a school or a student is not permitted for an ineligible violation or an ineligible student who attends a defensive driving course, whether by fault of the student or school.

e. At its discretion, a court may direct refund of a court diversion fee to a student, or may direct the school to forward the fee to the court for a bond or other amount due the court, up to the amount of the default for the citation.

f. A school shall maintain complete and accurate records of all refunds and shall attach supporting documentation to each refund disbursement.

g. In cases where refunds cannot be authorized under this section, the board may authorize, pursuant to subsection (D)(5)(b)(2), restoration of eligibility for a student who attends a defensive driving course but cannot have the violation dismissed because the violation was ineligible for diversion. An ineligible violation is any violation not included in A.R.S. § 28-3392(A)(1) or (2).

31. Assumed Business Name. These requirements are contained in ACJA § 7-201(F)(3).

32. Instructors. In addition to the requirements of ACJA § 7-201(F), an instructor may only teach defensive driving courses or contract to provide assistance under the auspices of a school.

G. Renewal of Certification. In addition to the requirements of ACJA § 7-201(G), the following requirements apply:

1. Expiration Date. All school and instructor certificates shall expire at midnight, October 31st of odd numbered years.

2. Schools. Each school seeking renewal of certification shall:

   a. Pay the specified renewal fee in subsection (K), calculated by division staff based on the total number of students completing a defensive driving course during the previous two state fiscal years;

   b. Pay any outstanding assessed ineligible completion processing fee;

   c. Provide division staff any changes in administrative, operational or financial procedures;

   d. Provide division staff any changes in curriculum content by electronic means only; and

   e. Provide division staff any changes in third party contracts.

3. Instructors. All instructors shall:

   a. Apply for renewal by submitting a certified motor vehicle record for the prior 24 months preceding the date the applicant files the renewal application with division staff.

   b. Teach a minimum of eight classes in the 24 months of each renewal cycle. An instructor whose certificate expires less than one year from the effective date of certification shall teach on a pro-rated basis at the rate of at least one class for every two months the instructor has been certified. The employing or contracted school shall maintain records

of classes taught for each employed or contracted instructor and shall provide the records on request of division staff or the board.

c. Continuing education. During each renewal cycle all instructors shall attend a total of twelve hours of continuing education, six in each calendar year as required by the continuing education policies in subsection (L).

d. Pass the examination for certification required pursuant to subsection (E)(2)(e) to qualify for renewal of certification.

4. Restricted Certification.

a. In order for a school to cover their scheduled defensive driving courses in the event of an emergency where an instructor is not available to teach a course, an owner or principal of a school may apply for, and the board may grant a restricted certificate under the following conditions:

(1) The owner or principal shall apply for the restricted certificate on a form approved by the board;
(2) The owner or principal holds a valid certificate as an instructor and meets all renewal requirements, except the requirement for the number of classes taught; and
(3) The owner or principal has not had a certificate that has been revoked or suspended.

b. To remain eligible to renew a restricted certificate, owners and principals shall complete all renewal requirements each renewal cycle except the number of defensive driving courses taught pursuant to subsection (G)(3).

5. Denial of Renewal. In addition to the requirements in ACJA § 7-201(G), the following requirements apply:

a. The board may refuse to renew the certificate of any instructor who fails to meet the standards of this section and ACJA § 7-201 on two or more successive classroom monitoring sessions, completed more than 30 days apart.

b. If an instructor's certification lapses or is denied due to failure to meet renewal requirements, the instructor is not eligible to apply for subsequent certification for six months.

H. Complaints, Investigation, Disciplinary Actions and Hearings. These requirements are contained in ACJA § 7-201(H).

I. Policies and Procedures for Board Members. These requirements are contained in ACJA § 7-201(I).

J. Codes of Conduct.

1. Schools. This code of conduct is adopted by the supreme court to apply to all schools certified by the Arizona Supreme Court, pursuant to A.R.S. § 28-3395. The purpose of this code of conduct is to establish minimum standards of performance for schools.

   a. Curriculum. A school shall exercise extreme care and diligence and ensure all materials used in the instruction of defensive driving courses, whether in a classroom or in an ADM format, are in the public domain or original and not copied without the appropriate written permission.

      (1) A school shall make all reasonable efforts to secure accurate and current information in its presentations in defensive driving courses.
      (2) A school shall not use any curriculum material or teaching methods not approved by the board.

   b. Ethics. A school shall not operate in a manner reflecting adversely on the judiciary, board, courts, division staff or other agencies involved in the administration of justice including law enforcement agencies and attorneys.

      (1) A school shall maintain the confidentiality of all defensive driving student records, only transmit confidential information by U.S. Post, facsimile, or a secure electronic file, and shall not disclose defensive driving database information to any third party. A school may disclose information only upon presentation of reasonable evidence the individual seeking the information is the same individual who is the subject of the record. A school shall refer all third party requests for information to division staff.
      (2) A school shall not perform nor permit its employees, representatives or third party contractors to perform judicial functions or functions for court staff. School employees, representative or third party contractors shall not volunteer assistance to court staff in their official duties.
      (3) In addition to the provisions of ACJA § 7-201(H)(6)(c), a school and its staff shall comply with all requests for communications or information from court staff.

   c. Classrooms. A school shall maintain the appropriate decorum in the classroom to promote an atmosphere of learning for students. A school shall:

      (1) Direct the instructors to require students to be punctual and attentive;
      (2) Direct the instructors to prevent or control disruptions by students interfering with the conduct of the defensive driving course or distressing other students;
      (3) Direct the instructors to prohibit students from sleeping or engaging in other activities that are not a part of the school's approved defensive driving course during the classroom instruction;
      (4) Direct the instructors to forbid the use of electronic devises or laptop computers by

students causing inattention or detractions from the learning of the student of other students in the defensive driving course; and

(5) Not use a facility for a classroom presentation which may create distractions prior, during or after the presentation.

d. Compliance. A school shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section.

e. Advertising. A school shall not permit any erroneous or misleading advertising by omission, material misrepresentation, dishonesty or fraud. A school shall not permit advertising during the presentation of its approved course. A school shall not provide any endorsements, rewards, or incentives to a student in order to:

(1) Receive reduced costs to attend the school's course by responding to an advertisement or taking a survey provided by the advertiser or school;
(2) Waive any costs or fees to attend the course;
(3) Misrepresent the costs to attend the course; or
(4) Misrepresent other schools' course offerings.

2. Instructors. This code of conduct is adopted by the supreme court to apply to all instructors. The purpose of this code of conduct is to establish minimum standards of conduct for all instructors.

a. Responsibilities. The fundamental responsibility of an instructor is to ensure the instruction of all students in the approved curriculum and to meet the mandatory instruction time, in a professional manner encouraging student learning.

b. Ethics. An instructor shall exhibit the highest degree of ethical conduct and maintain the confidentiality of information provided by students.

(1) An instructor shall be aware at all times the instructor represents the supreme court and the instructor's employing school.
(2) An instructor shall not act disagreeably or permit personal feelings, prejudices, animosities, or friendships to influence the student, classroom conduct or delivery of the defensive driving course.
(3) An instructor shall not accept any gratuities or favors from a student, other classroom participant or court employee.
(4) An instructor shall avoid the appearance of a conflict of interest or self-dealing. A conflict of interest or self-dealing arises where the instructor has a personal or agency interest other individuals may perceive as self-serving or adverse to the position of the student, school or court.
(5) An instructor shall exhibit the highest degree of professional conduct. An instructor shall:

(a) Act in a professional manner, prior, during and after the delivery of a defensive driving course;
(b) Dress in business casual attire, when teaching in a classroom setting;
(c) Not use a classroom presentation as a forum for any purpose except the presentation of the approved curriculum;
(d) Respond to questions or comments in a constructive manner, to encourage student questions and participation. This requirement applies to a classroom presentation and when an instructor is answering an on-line question;
(e) Respond in a constructive and professional manner to any disruptive activity in a classroom;
(f) Not make any derogatory comments concerning the courts, board, court employees, law enforcement or other professionals associated with the judicial system;
(g) Not advise or provide interpretation on any traffic law or the legality of a traffic law or citation issued to a student; and
(h) Not conduct any other enterprise or business activity in or within close proximity to the classroom or facility in which the traditional classroom course is conducted.

(6) Knowledge and training. An instructor shall:
(a) Understand the approved curriculum and have the knowledge and training to present the information to the students through an understandable adult learning technique;
(b) Present only the material contained in the school's curriculum;
(c) Respond to students' questions with clear and correct answers. If the instructor does not know the answer, the instructor shall advise the student, research the question and obtain the correct answer. The instructor shall provide the answer to the student, if possible, before the end of the classroom presentation or on-line defensive driving course. If the instructor cannot locate the answer before the end of the presentation or course, the instructor shall follow-up with the information for the student as soon as possible; and
(d) Take the necessary steps to become informed of any statutory or local ordinances changes in the traffic laws.

(7) Compliance. An instructor shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section.

K. Fee Schedule.

1. Initial School Certification Fees for Two Year Period.	Fee
a. Application year 2011:	
(1) Certification expiring more than one year after application date	$ 3000.00

(2) Certification expiring less than one year after application date $ 1500.00

b. Application year 2012:

(1) Certification expiring more than one year after application date $ 4000.00

(2) Certification expiring less than one year after application date $ 2000.00

c. Application year 2013 and after:

(1) Certification expiring more than one year after application date $ 5000.00

(2) Certification expiring less than one year after application date $ 2500.00

2. Initial Instructor Certification Fees for Two Year Period.

a. Certification expiring more than one year after application date $ 50.00

b. Certification expiring less than one year after application date $ 25.00

3. Examination Fees for Individuals.

a. Applicants for certification examination $ 50.00

b. Re-examinations $ 50.00

(For any applicant who did not pass the examination on the first attempt. The $50.00 fee applies to each re-examination.)

c. Re-registration 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 for Two Year Period.

a. School renewal

(1) Renewal year 2011:

Renewal fee for all schools $ 500.00

(2) Renewal year 2013:

Renewal fee for all schools	$ 750.00

(3) Renewal year 2015 and after:

Renewal fee for all schools	$ 1000.00

b. Instructor renewal $ 50.00

c. Late renewal fees

(1) School	$ 50.00
(2) Instructor	$ 50.00

d. Delinquent continuing education $ 50.00

5. Miscellaneous Fees.

a. Replacement of certificate or name change	$ 25.00
b. Public record request per page copy	$ 00.50
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.)

e. Ineligible student completion processing fee (per occurrence)	$ 20.00
f. Implementation of an additional modality application fee	$ 2000.00

L. Continuing Education Policies.

1. Purpose.

a. Ongoing continuing education is one method to ensure instructors maintain competence in the field after certification is obtained. Continuing education also provides opportunities for instructors to keep abreast of changes in the profession, applicable traffic laws, and the Arizona judicial system.

b. Pursuant to ACJA § 7-201(D)(5)(c)(1) the board shall make recommendations to the supreme court regarding rules, policies, and procedures to implement and enforce the requirements regarding instructors, including continuing education. This subsection is intended to provide direction to instructors and schools to ensure compliance with the continuing education requirements and to provide for equitable application and enforcement of the continuing education requirements.

2. Applicability. Pursuant to subsection (G)(3)(c):

   a. All instructors shall comply with the continuing education policies in ACJA §§ 7-201 and 7-205.

   b. All instructors who hold individual certification shall complete six hours of continuing education every year for a total of twelve hours of continuing education during the renewal cycle, unless the board grants an extension. Instructors may not bank or roll over excess continuing education hours from one calendar year period to the next.

3. Responsibilities of Instructors.

   a. It is the responsibility of each instructor to ensure compliance with the continuing education requirements, maintain documentation of completion of continuing education, and to submit the maintained documentation upon the request of the board or division staff.

   b. Upon request of the board or division staff, each instructor shall provide additional information required by the board or division staff when the board or staff reviews renewal applications and continuing education documentation.

   c. Continuing education not recognized for credit upon board review does not in any way relieve the instructor of the responsibility to complete the required hours of continuing education.

4. Authorized Continuing Education Activities.

   a. Continuing education activity shall address areas of proficiency, competency and performance as a defensive driving instructor, impart knowledge and understanding of the field, applicable Arizona traffic laws and safe driving techniques; and increase the participant's understanding of the conduct and responsibilities of an instructor.

   b. Continuing education activity shall include the following subjects:

      (1) The role, conduct and responsibility of an instructor pursuant to ACJA §§ 7-201 and 7-205;

(2) Topics pertaining to any defensive driving curriculum subject matter listed in subsection (E)(1)(k);
(3) Ethics for instructors, including cooperation with the court staff, schools, students, and other certified instructors or, professional courtesy and impartiality to all students; and knowing the differences between providing information versus giving legal advice. At least one hour in an ethics-related topic is required each year of the renewal period. The one hour of ethics must stand alone and may only be credited as ethics and not as a portion of the other five hours of continuing education required each year of the renewal period;
(4) Traffic laws pertinent to Title 28 of the Arizona Revised Statutes; Arizona Rules of Court; administrative orders and rules; Motor Vehicle Division issues which pertain to the Defensive Driving Program; and current issues in the Arizona court system affecting the Defensive Driving Program;
(5) Accompanying an on-duty certified law enforcement officer who is actively engaged in traffic enforcement activities;
(6) Adult education techniques;
(7) Presentation skills including utilizing reference materials and software for presenting defensive driving courses;
(8) Professional or personal development topics such as interaction management, time management, stress management, and CPR training; or
(9) Eligible in-service training conducted by a school owner or principal.

c. Conferences. An instructor may receive continuing education credit for attendance at a conference relevant to the profession. An instructor may receive 100 percent continuing education credits for attendance at such a conference, provided the conference is directly related to the profession. Breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.

d. University, college and other educational institution courses. An instructor may receive continuing education credit for a course or professional development program provided by a university, college or other institutionally accredited educational program if the instructor successfully completes the course or program with a grade of "C" or better or a "pass" on a pass/fail system. An instructor may receive continuing education credit if the course is relevant to the role and responsibilities of an instructor, adult education techniques, traffic laws or other topics pertaining to defensive driving curriculum and presentations. The instructor may receive credit up to two times the number of credit hours awarded by the educational institution. The maximum total hours of continuing education credits earned from the course work shall not exceed 50 percent of the total number of continuing education hours required for renewal.

e. Authoring or coauthoring articles. An instructor may receive continuing education credit for authoring or coauthoring an article directly related to defensive driving instruction and curriculum if the article is published in a state or nationally recognized professional journal and if the article is a minimum of 1,000 words in length. An instructor may

receive a maximum of one hour of continuing education credit for authoring an article or articles during a renewal period. An instructor shall not receive continuing education credit for the same article published in more than one publication or republished in the same publication in later editions.

f. Self-study. An instructor may receive continuing education credit for self-study activities, including video and audio tapes, online computer seminars, and other methods of independent learning. A copy of the curriculum shall be submitted to division staff upon request. The maximum total hours of continuing education credits earned from self-study shall not exceed 50 percent of the total number of continuing education hours required for renewal.

g. Serving as faculty. An instructor may receive continuing education credit for serving as faculty, instructor, speaker, or panel member of a continuing education or instructional seminar directly related to defensive driving. This does not include any class or on-line presentations as an instructor for students enrolled in a defensive driving course. An instructor may receive continuing education credit for the actual 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, instructor, speaker or panel member shall not exceed 50 percent of the total number of continuing education hours required for renewal and an instructor shall not receive duplicate credit for repeating a presentation during the renewal period. An instructor may receive continuing education credit for actual presentation time for duplicate presentations in subsequent renewal periods, however, shall not receive continuing education credit for preparation time for those programs.

h. An instructor shall not receive credit for monitoring or mentoring activities of a newly employed or contracted instructor.

5. Minimum Time. Each continuing education activity shall consist of at least 30 minutes of actual clock time spent by a registrant in actual attendance at and completion of a continuing education activity. "Actual clock time" is the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the initial 30 minutes of a continuing education activity, an instructor may receive credit in fifteen minute increments.

6. Maximum Credit. Unless the board determines otherwise, an instructor shall not receive more than 50 percent of the credit requirement for the renewal period through one activity. This limit shall not be exceeded unless the board approves an additional amount be credited, on a case-by-case basis, for an exceptionally lengthy or involved, professionally relevant activity, course, or event completed by the instructor. The board's decision is final in all such matters.

7. Non-Qualifying Activities.

   a. The following activities shall not qualify for continuing education credit for instructors:

      (1) Educational course work and training completed to qualify for initial certification;
      (2) Mentoring or trainee supervision activities;
      (3) Serving on boards, committees or councils or as an officer in a professional organization;
      (4) Attendance or participation at board, committee, council or professional association business meetings, general sessions, elections, policymaking sessions or program orientation; 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 renewal period do not qualify for credited duplicate hours. An exception shall be allowed for an instructor who attends a supreme court training program or conference once per calendar year.

   c. If an instructor attends part, but not all of a continuing education activity, the instructor is not eligible to claim partial credit completion.

8. Documentation of Attendance or Completion. When attending or completing a continuing education activity, each instructor 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 educational activity;

   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. An instructor 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. Pro-ration of continuing education requirement. An instructor whose certificate expires less than one year from the effective date of certification shall complete continuing education on a pro-rated basis at the rate of at least one continuing education credit for every two months the instructor has been certified. In subsequent renewal periods, the instructor shall complete the normal twelve hour continuing education requirement. Pro-ration of the continuing education requirement does not apply to an instructor who previously held certification and allowed certification to lapse.

c. Extension or waiver of continuing education requirements. An instructor seeking renewal of certification who has not fully complied with the continuing education requirements may request an extension of the continuing education requirements under the following conditions:

(1) The instructor submits a written statement to the board, explaining the facts regarding non-compliance and requesting an extension of the requirements no later than the September 1st preceding the October 31st expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the instructor 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 instructor has been unable to devote sufficient hours to fulfill the requirements during the renewal period because of:
  (a) full-time service in the armed forces of the United States during a substantial part of the renewal 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) An instructor whose certificate has been suspended or revoked by the board is not eligible to request an extension of the continuing education requirement.
(4) The board or division staff may request documentation or additional information from an instructor applying for renewal to verify compliance with the continuing education requirements. If the instructor 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 period, the board shall request division staff to randomly specify a number of instructors 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 documentation of continuing education compliance may result in denial of renewal of certification pursuant to ACJA § 7-201(G) or disciplinary action pursuant to ACJA § 7-201(H) and this section.

e. An instructor who fails to complete the continuing education requirement, 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; or
(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 instructor compliance with the continuing education requirement;
(2) Require additional information from the instructor 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. Division staff shall notify the instructor, in writing, within ten days of the board's decision. An instructor may appeal the decision by submitting a written request for review to division staff within fifteen days of the date of the notice of the board's decision. The instructor may request to appear before the board at the next available regularly scheduled board meeting.

c. The certification of an instructor 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.

Adopted by Administrative Order 2000-84, effective March 1, 2001. Amended by Administrative Order 2002-106, effective November 19, 2002. Repealed and replaced by Administrative Order 2006-73. Amended by Administrative Order 2008-97, effective January 1, 2009, unless otherwise delineated in the administrative order adopting the section. Amended by Administrative Order 2009-127, effective January 1, 2010. Amended by Administrative Order 2010-115, effective January 31, 2011.