

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

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<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 11, 2017	X Formal Action/Request — Information Only — Other	Defensive Driving - ACJA § 7-205

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#### **FROM:**

Mark D. Wilson  
Director  
Certification and Licensing Division

#### **DISCUSSION:**

During the Council's June meeting, staff presented certain proposed changes to the Defensive Driving administrative code (ACJA § 7-205) and requested guidance from the Council on how to proceed with the proposed changes. As presented at the June meeting, in recent years there has been rapid growth with regards to the number of schools providing the defensive driving courses; the AOC defensive driving website has not been recently enhanced; and the course curriculum has not been recently updated.

At the conclusion of the presentation and comment, the Council offered the following guidance:

Rapid Growth of Schools The number of schools certified and/or the number of schools that an individual may own should not be limited. The code should recognize the differences between online and classroom classes. Staff should develop revisions to the code that promote a student's understanding of the available options and promoting the ability to make a choice.

Website Improvement The present defensive driving website should be modified to (i) allow the driver to more easily sort by language, and classroom vs online classes, and (ii) to improve the site to allow the student to search by location of a class, time of a class and date of the class.

Update Course Curriculum Requirements The curriculum requirements should be studied

and updated.

Modification of Renewal Period To implement the amendments, the renewal period should be modified so that all certifications expire on October 31<sup>st</sup> of both 2017 and 2018. After which time the expiration date would again become October 31<sup>st</sup> of each odd numbered year. The renewal fees would be reduced by 50% for these two renewal years.

Based on the Council's guidance, Staff has drafted proposed changes to ACJA § 7-205 and the proposed changes are attached.

Finally, public comments have been posted to the ACJA forum. A summary of the comments and the comments are attached.

**RECOMMENDED COUNCIL ACTION:**

AOC requests the Council take formal action recommending the adoption of the proposed changes to ACJA § 7-205.

## ACJA § 7-205 Summary of Comments

### **Issue 1: Substantially Different Curriculum for ADM Schools**

The draft requires that the Board refuse to certify an ADM school if the school fails to demonstrate the curriculum is substantially different from the curriculum of other programs in which the applicant has ownership or a financial interest.

#### **Comments:**

- Seek clarification that the provision applies to existing ADM schools and would apply if schools were subsequently transferred after certification
- Questioned the definition and application of “substantially different”
- Questioned the concept that the Board decisions are final as to third parties
- Questioned why “substantially different” doesn’t apply to classroom schools

#### **Staff Response:**

Staff agrees with the comment that the draft should be clarified to assure the “substantially different” requirement applies to all ADM schools. Staff disagrees with the concerns that the definition of “substantially different” is unclear. The draft provides that the “substantially different” test requires that a reasonable person would not determine the two programs were created by the same individual. As to the comment related to the third-party language, the draft clarifies that there is no administrative process for a non-applicant school to challenge whether an applicant’s curriculum is “substantially different”.

The justification for requiring ADM schools to have a “substantially different” course is so that when a potential student reviews the list of ADM schools, each school on the list should represent a different product (i.e. one owner doesn’t have five schools appearing to represent different products when in fact it a single product). Requiring a “substantially different” curriculum for each ADM school owned by an applicant assures the consumer is receiving a choice between different options. That requirement of choice is satisfied for classroom schools by allowing the students to select a class by time, date and location.

### **Issue 2: Board Appointments**

The draft reduces the number of school owner members from three to two and the instructors from two to one and causes all to be non – voting members.

#### **Comments:**

- Suggested shorter terms and term limits
- Suggested that school owners should be voting members
- Expressed concern that Board members who are school owners are privy to confidential information relating to other schools

**Staff Response:**

The Division staffs a number of Boards and each Board has members of the regulated industry on the Board. The Defensive Driving Board has proven to be different from other Boards. When compared to other Boards, certified school owners seem to have different economic interest in the actions of the Board, and the school owner's competitors, than other regulated members. Because of the nature of the industry, a school owner board member may be more significantly impacted by, for example, a certification decision, than a legal document preparer Board member would be impacted by allowing another individual to be certified as one of 700 LDPs. This has been demonstrated at Board meetings, in the growing number of complaints filed by school owners against school owners, and the process we are currently engaged in.

The input from the regulated industry is important, but staff believes that given this is a regulated industry and the nature of the industry, limitations on school owners involvement in actual decision making is appropriate.

**Issue 3: School Names**

The draft clarifies the Board's role in reviewing and approving defensive driving school names.

**Comments:**

- Expressed concern regarding the Board's decision-making process
- Suggested that current schools be grandfathered – Cost of name modification
- Expressed that the Court shouldn't be involved in school names. Permissible to control appearance on website but not for public.

**Staff Response:**

Staff believes that the Board's authority over appropriateness of a school name must be clarified and strengthened. Recently, the Board rejected a number of names proposed by a school owner which were to the effect "Traffic School Sucks". Defensive driving is a government program that incentivizes individuals to attend a driving class. As such, to some extent the schools represent the State, the Courts and the program. If a school does not wish to be certified and participate in the program, it is free to select any name it desires and compete for non- defensive driving students.

**Issue 4: Cost**

The draft clarifies the schools' obligation to provide student completion information to the courts and to provide a completion certificate to the student, both at no additional cost to the student. The draft also clarifies that all of the school cost to the student (not including diversion fees or state fees) must be disclosed on the opening page of the school's website.

**Comments:**

- Suggest schools should be able to charge for additional certificates or expedited service to the court
- Suggest the ACJA should set a minimum cost that schools must charge
- Suggest schools should be able to modify fees at any time

**Staff Response:**

The ACJA presently requires that a school provide a completion certificate to each student, timely notify the court of a completion and pay the court. A student receives no benefit by expedited notice to the court. Some schools appear to be attempting to create the perception that it is in the student's interest to pay for a certificate (as proof of completion) or pay to expedite notification of completion to the court. An example of how this may happen is a school places a description of its obligations on the opening page of the course and 240 minutes later, as the student is completing the ADM course, the student is presented a page asking if the student would like to pay for a completion certificate or to pay for expedited notice to the court. Complaints to staff have demonstrated that some students have been misled by this practice.

As to the amount of fees, a number of options are available: allow students to search for lowest fee (AJC rejected), set a maximum fee, set a minimum fee, set the fee or allow the market and schools set the fee. Staff disagrees with the comment that a minimum fee should be set. Such a provision might serve to "protect" certain schools that cannot provide required quality of service that can be provided at lower cost by other schools.

While sometime in the future it may be appropriate to consider changing the procedures that school must follow to modify its fees, staff does not believe it is appropriate at this time. The purpose of this provision, (it has not been modified in this draft), is to assure staff can determine the fee in place on a given day if a complaint must be investigated or audit conducted. Some schools presently attempt approaches that create an impression of one fee when the school actually charges another. Above, staff discussed the practice of encouraging students to pay addition money for a certificate or expedited notice to the court. Schools accepting online registration have been known to advertise one cost and then elsewhere on the page "disclose" additional charges for paying online for the ADM course.

While these examples are not directly related to whether a school should be able to change its fee on a more frequent basis, they do demonstrate the need for regulatory certainty of the facts.

**Issue 5: Course participation questions, substantive questions and interactive format**

The draft adds the requirement of substantive question being included in an ADM course. A student would not be allowed to move forward prior to successfully answering the questions. There would be no limit on the number of attempts. The code also requires that the ADM course be interactive.

**Comments:**

- Questioned the lack of definition of "substantive" questions
- Questioned the difference "participation" questions and "substantive" questions
- Expressed that if a student fails a participation test the student should be allowed to repeat an ADM course and not be required to take classroom

**Staff Response:**

Staff believes that having substantive questions throughout an ADM course will improve the students' attention to the materials. It is important to have both substantive questions and participation questions because some students may be able to answer the substantive questions without participating in the ADM course. By their nature, participation questions require the student to have observed the course material.

The ACJA presently requires a student failing the participation questions to attend a live class. Staff believes this requirement shouldn't be modified. If the student does not actively participate in an ADM course, as demonstrated by the school's participation question, the student should be required to attend a live class where attendance can be monitored.

#### **Issue 6: ADM class should not be capped at 270 minutes**

The draft requires that an ADM course last be between 240 and 270 minutes.

#### **Comments:**

- Questioned whether an ADM course should be capped at 270 minutes because some students may want to take additional time.

#### **Staff Response:**

Staff agrees that the draft should be modified to clarify that the class must last 240 minutes and that a student *should be able* to complete the class in less than 270 minutes.

#### **Issue 7: Curriculum change fees**

The draft requires a school receive approval of any curriculum changes and if the changes are voluntary the school remit a fee.

#### **Comments:**

- Questioned whether changes of a typographical nature or class-specific student violation statistics would need to be approved and a fee paid.

#### **Staff Response:**

All defensive driving course presentations are approved by staff. Modifications to the curriculum also must be approved by staff. This provision provides a mechanism to fund a course review when the change is done for voluntary reasons as opposed to as the result of statutory of ACJA amendments.

#### **Issue 8: Time frames for correction of violations and penalties**

The draft does not modify the existing process for complaint processing or imposition of discipline.

#### **Comments:**

- Suggested clarification regarding penalties and remedial processes to be implemented by the Board.

#### **Staff Response:**

The draft does not modify the existing complaint and discipline process and staff does not suggest modification at this time.

#### **Issue 9: Website changes**

The draft requires staff to establish a website that sorts available classroom classes by, among other things, date, time and location.

**Comments:**

- Stated the website should not sort by date, time or location.

**Staff Response:**

Staff disagrees with this comment. It is in a prospective student's interest to be able to search for a class by these criteria. The website is in development but it is anticipated, for example, that a prospective student will be able to search for all classes within a certain distance from a given zip code.

**Issue 10: Inability to change date, time and location of class except in extraordinary circumstances**

The draft prohibits a classroom school from changing the date, time or location of a class once the class has been listed on the website.

**Comments:**

- Stated a school should be able to cancel if class become unprofitable
- Stated a school should be able to cancel up to 72 hours prior to the class
- Stated the language should be modified to clarified that once posted on the school's website of on the Court's website there could be no changes.

**Staff Response:**

Staff disagrees with these comments. Schools, during the various meetings, have expressed concerns that other schools will schedule classes with the intent of canceling classes and then combining the cancelled class' students with another class. Those raising this issue suggest that schools would do this as a marketing strategy in that the school would have more places on the randomized list of schools for the student to select from.

The draft's intent is to assure students are presented with choices and not the appearance of choices. While for the program to work, schools must make a profit. It is not however the purpose of the regulations to assure in each situation a particular class will be profitable or that a school can maximize its profit for each class.

**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~~subsection (K)(4)(8).

“Affirmation of eligibility” means a form, approved by division staff, 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.

“Co-mingling” means to mix a school’s trust account funds with funds from any other source.

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

“Completion certificate” means a document that ~~may be~~ is 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 throughout the ADM course to determine if the student is ~~the person registered for the course~~ actively viewing 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 and the Administrative Office of the Supreme Court.

“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~~ asked of a student 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.

“Interactive format” means a format in which the student is required to interact and engage materially with the content, using methods such as a requested keystroke, “drag and drop” of an item, or a mouse-click on a designated portion of the content, which shall occur randomly, in no more than fifteen-minute increments.

“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~~ These responsibilities are contained in 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; and
      - (14) Substantive questions embedded in the exam.
    - 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 under ACJA § 1-401 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)~~ (11) 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 website.
- e. Administer the instructor 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~~ three hours of continuing education for instructors every calendar year in the two year renewal cycle for a total of ~~twelve~~ six hours.
- h. Implement a monitoring program including conducting compliance audits of certified schools and instructors.
- i. Implement and maintain a website and IVR listing certified schools. The font, spacing and other factors related to visual appearance of a school listing on the website shall be consistent among all schools listed. As determined by the division director, the website shall allow the public to filter, by among other things, language, location and time and results shall be randomized. The website and IVR are maintained for the purpose of educating the public as to the public's choices when selecting a defensive driving course and is not intended to be utilized as a marketing tool by an owner providing the same options to the public by different certified schools.

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~~ One non-voting certified instructor who ~~have~~ has worked as a certified instructor for at least five years;
- (2) ~~One~~ Two judges from a limited jurisdiction court;
- (3) Two court administrators from limited jurisdiction courts;
- (4) ~~Three~~ Two non-voting 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~~ Two additional members appointed by the chief justice.

The non-voting members are not considered when determining a quorum.

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

- ~~(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) (1) 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~~ A judge, court official or employee shall not accept and 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, i~~Implement the provisions of A.R.S. § 28-3393.

~~A. Except as provided in subsection B, an~~ 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 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; Implement requirements for electronic reporting of school completions and for financial management and distribution of funds as adopted by the Director.~~
- (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 1<sup>st</sup> for the April 1<sup>st</sup> effective date and by September 1<sup>st</sup> for the October 1<sup>st</sup> 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 1<sup>st</sup> for the April 1<sup>st</sup> effective date, or after September 1<sup>st</sup> for the October 1<sup>st</sup> effective date, will not take effect on April 1<sup>st</sup> or October 1<sup>st</sup>, 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)~~(3) 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, naming the certified school as the insured, 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.
- 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 a reasonable period of time to allow for an interactive format, ~~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 a manner to encourage behavior modification with the purpose of reducing driving violations and accidents. 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~~ questions. 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; and
      - (iii) Attitude and road rage; ~~and,~~
      - ~~(iv) Inattention and distractions.~~
    - (c) Inattention and distractions, including:
      - (i) Texting, and
      - (ii) Mobile devices.
  - (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) Roundabouts;
  - ~~(g)~~ School crossings;
  - ~~(g)~~ School buses and emergency vehicles;
  - ~~(h)~~ Pedestrians and crosswalks, marked or unmarked; and
  - ~~(i)~~ Major criminal traffic violations.
- (6) The division director may require such other educational or behavior modification topics as the division director determines is appropriate.
- ~~(6)~~ If an ADM course, the ~~examination~~ course participation questions shall consist of twenty-five course participation questions and five identity verification questions having a maximum 30 second timeframe to respond to each question.
- ~~(7)~~ If an ADM course, the course participation ~~examination~~ questions shall:
- (a) Have a pass rate of 80 percent; and
  - (b) Only be included with the on-line course.
- (9) If an ADM course, the identify verification questions must all be answered correctly.
- (10) If an ADM course the substantive questions required by subsection (F)(24)(d)(5)(p) must be answered correctly prior to proceeding;
- (11) If an ADM course, the student's electronic record of participation shall include:
- (a) a footprint of student navigation through the course;
  - (b) the login and logout times from the course; and
  - (c) times when a student has been logged out for inactivity in the course.

1. 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. The administrative procedures manual shall:

- (1) include specific detail on the process an ADM school shall use to determine a positive identification of the individual enrolled in the defensive driving course, in compliance with subsection ~~(F)(25)(d)(5)(b)~~ (F)(24)(d)(5)(b). This detail shall include whether or not the ADM school will utilize a third party process for verification of the user identity.
- (2) include specific detail on the school's hours of operation which shall not be less than Monday through Friday 9:00 a.m. to 5:00 p. m. and Saturday 9:00 a.m. to noon.
- (3) include specific detail on the school's staffing to answer student and court telephone or email inquiries. The school's staffing must allow for prompt response to inquiries.

Once approved, a school must comply with and may not change the procedures until the school obtains approval from the board.

- m. Utilize the supreme court's minimum accounting standards under ACJA § 1-401 ~~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)~~(25) and (F)~~(28)~~(26).
- 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 participation and substantive questions ~~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.

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

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

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

~~xw.~~ 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.
  - (1) The applicant shall use the application for waiver form provided by the AOC and shall complete the following information on the form:
    - (a) Description of the officer's position and duties and if the officer's position includes the authority to issue citations, the number of citations the officer issued in the past twelve months;

- (b) The jurisdiction where the officer intends to serve as a defensive driving instructor and whether that conflicts with the jurisdiction where the applicant serves as a law enforcement officer;
  - (c) An acknowledgement by the officer that the officer, if certified as an instructor, shall not refer to the officer's employment as a law enforcement officer when teaching a defensive driving class; and
  - (d) An acknowledgement by the officer that if the officer's responsibilities change such that the officer is routinely issuing citations the officer will notify the presiding judge within ten days.
- (2) The presiding judge will consider all of the factors listed in subsection (E)(2)(g)(1) when considering the request for waiver and may grant or deny the request.

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.
- e. 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~~ division staff 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 shall refuse to certify an ADM applicant or course for certification:

- (1) If applicant fails to demonstrate that the applicant's curriculum is substantially different from the curriculum of other programs in which the applicant has common ownership or a financial interest.
- (2) Substantially different curriculum means:
  - (a) The curriculum and the manner of presenting the curriculum use different organization, videos, and demonstrative props than other programs; and
  - (b) A person participating in both classes would not understand from the presentation that there was common ownership.
- (3) Common ownership means:
  - (a) Ownership of or an interest in two or more schools by an individual or entity;
  - (b) Ownership of or an interest in two or more entities that have an interest in a school; or
  - (c) Financial or other benefit, direct or indirect, in or from two or more schools by an individual or entity.
- (4) Decisions of the board concerning substantially different curriculum are final as to third parties. The Board is not authorized to enforce a third party's copyright.

b<sub>c</sub>. 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.

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

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

5. Decision Regarding School Name. The Board may refuse to approve a school name or name change if:

a. The name of the school is vulgar, obscene, misleading or expresses disrespect, contempt or ridicule to the supreme court, court system, law enforcement, or the defensive driving program; or:

b. The name contains:

(1) more than 50 characters including spaces and special characters;

(2) more than two special characters or punctuation marks and three numerical digits, except in the case of an abbreviation or acronym;

(3) emoticons; or

(4) is entirely upper or lower case, except in the case of an abbreviation or acronym.

**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 division-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 for review by staff and approval by the Board 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.~~
- kj. Provide the total school fee to attend the school's course in all information or materials provided to students, including the school's website. This total fee must include 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 before the student begins the registration process. The school shall provide the total school fee information in a conspicuous place on the first page of the school's Arizona web site and on published materials in a manner that is readily noticeable to the public and that is in accordance with the format specified by the AOC for all schools. The school when providing the total school fee may not refer the potential student to other portions of the webpage. A school shall inform the student that it will report the student's completion to the court having jurisdiction for no additional charge. In those situations, in which a school offers the student an alternative (i.e., expedited) method of reporting the completion, the school shall notify the student that the alternative method is not necessary for timely notification to the court.
- lk. A defensive driving school shall post on the opening page or opening Arizona page of their internet website the following information:
  - (1) The total fees and charges in the format specified by the AOC, which shall include the following information:

- (a) The school's total fee to attend reflecting all fees the school charges for the student to attend and complete the course and processing of the completion to the court;
  - (b) The state fee;
  - (c) The state surcharge;
  - (d) A link to an additional webpage that identifies the court diversion fee for the court where the student's citation is pending or the specific diversion fee for each court;
  - (e) That the total cost for the student to attend the school is the total of the school fee, state fee, state surcharge and the court diversion fee;
  - (2) The eligibility requirements to attend a defensive driving school;
  - (3) The instruction that a student must complete the course 7 days prior to their arraignment date;
  - (4) The violations eligible for defensive driving diversion or a link to the Supreme Court website listing eligible violations;
  - (5) 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;
  - (6) The class or program instructional times;
  - (7) School refund policy; and
  - (8) Link to the Supreme Court's website and toll-free telephone number to further assist the public.
- Ⓜ. l. Report the school fee up to two times each year, effective either on April 1 or October 1, or on both dates. If a school charges a different fee, depending upon the municipality or the county in which the student was cited or based on other appropriate predetermined circumstances, the school shall report each fee, identifying the associated city or county. A school shall notify division staff by September 1 for changes effective October 1 and by March 1 for changes effective April 1, 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 1 deadline will not take effect on April 1 but will be delayed until the next change date on October 1. Any notice received from a school after the September 1 deadline will not take effect on October 1 but will be delayed until the next change date on April 1.
- Ⓝ. m. If an ADM school, ensure the course participation and identity verification questions are examination is included in the on-line course; and
- Ⓞ. n. 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 or by division staff if board-approved curriculum is updated to conform to a statutory change or are technical in nature, 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. Shall maintain any defensive driving diversion or state fees in a trust account at a financial institution in which deposits are insured by the federal government, and shall ~~N~~not co-mingle

any defensive driving diversion or state fees with any other funds ~~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 at no cost an original, or if requested, duplicate 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 questions and course participation questions if an ADM course; and
  - g. Completed the defensive driving course.
18. Ensure each student who ~~takes an examination~~ answers identity verification and course participation questions during following a defensive driving class receives notice of passing or failing the ~~examination course~~ course 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)~~(24).
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)~~(26) 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~~ at least fourteen days of prior to the date of the scheduled defensive driving course. Once scheduled, except for extraordinary circumstances, the date, time and location of the class cannot be changed or cancelled. 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. If a school fails to notify the division staff of a class cancellation or change of instructor, in addition to any other sanction, a \$50.00 fee shall be imposed by division staff on the school.
- ~~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~~24. 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

- (1) 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; ~~and 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; If a classroom school, ensure:~~
  - (a) each scheduled class only admits students registered with that certified school;
  - (b) the school's certified instructor is not teaching or facilitating a class for any other certified school at the same time the instructor is teaching a class for the school, and
  - (c) once scheduled, a class is not cancelled except for extraordinary circumstances which do not include failing to have a minimum number of students register for the class.
- (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; ~~;~~
    - (v) introductory remarks exceeding five minutes; or
    - (vi) breaks.
  - (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 held in a traditional classroom or conference room setting; 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 on a form approved by division staff 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 twelve month period from the date of the last violation by querying the defensive driving database; and
  - (b) Verify, by reviewing the person's driver's license and citation that 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~~) (3); 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. Pursuant to A.R.S. § ~~41-4801~~ 41-5001, a school "... shall not accept a consular identification card that is issued by a foreign government as a valid form of identification." Schools may retain a photocopy of each driver license or identification card;
  - (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, at no cost, to 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)~~ (F)(24)(d)(1) for the class and attempts to participate as a walk-in before the class begins; 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)~~ (F)(24)(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) Shall provide its course in an interactive format and Mmaintain evidence the student engaged in active participation during the presentation of the course, to include:
    - (i) student login and logout times; and
    - (ii) system logging off a student for inactivity

- (j) Not allow a retest when a student fails the course participation questions or the identity verification questions ~~portion of the examination~~;
  - (k) Maintain a record of each student's course participation and identity verification ~~test~~ question 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~~ course participation questions to the court of jurisdiction or to a traditional classroom course, time permitting;
  - (n) Provide a student who fails the ~~examination twice~~ course participation questions 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~~ course participation questions; and
  - (o) Not issue 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.
  - (p) Divide the ADM course into segments of various lengths not to exceed 15 minutes and require the student to answer three substantive questions concerning the segment just completed correctly before the student can proceed to the next segment.
- (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 disbursement 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.~~

2725. 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 provide the cumulative record to division staff with the Pay Period A remittance. 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 issue a certificate of completion, 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)~~(26).

2826. 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)~~ (F)(26)(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, in form and substance satisfactory to the division, 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 15<sup>th</sup> of the month by the 22<sup>nd</sup> day of that month;
  - (2) “Pay Period B” fees shall be received between the 16<sup>th</sup> through the 31<sup>st</sup> 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.
- (4) At the time of submission of the remittance report, provide details on refunded students in a form satisfactory to the division.
- 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 or transaction number issued by the court;
    - (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)~~ (F)(26)(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.

~~2927~~. 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.

#### 3028. 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. The school's refund policy shall clearly describe the situations in which the state fee, court diversion fee, and state surcharge are refundable.
- 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 arraignment 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).

~~3429~~. Assumed Business Name. These requirements are contained in ACJA § 7-201(F)(3).

~~3230~~. 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 certified school.

~~3231~~. An ADM school shall provide immediate access to the ADM course when requested by the AOC. The access provided shall be the same as that of a student enrolled and participating in the course.

~~3332~~. Sale or Transfer of Schools.

- a. Prior to the operation of a school, after the sale or transfer of that school, the new owner must complete an application for certification and the application must be approved by the board.
- b. The application must disclose any existing familial or business relationships with other owners, principals, entities, or officers.
- c. Any changes to the curriculum must be submitted with the application for voluntary curriculum changes fee.

**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 31<sup>st</sup> of odd numbered years.
2. Schools. Each school seeking renewal of certification shall provide such documents as the division shall request, wholly, but not limited to:
  - a. Pay the specified renewal fee in subsection (K);
  - b. Pay any outstanding assessed ineligible completion processing fee;
  - c. Provide division staff any changes, highlighted and with full documentation, in administrative, operational, or financial procedures;
  - d. Provide division staff ~~any~~ changes, highlighted and with full documentation, in curriculum content by electronic means; ~~and~~
  - e. Provide division staff any changes, highlighted and with full documentation, in third party contracts;;
  - f. Provide bank statements for the last three months preceding the filing of the application; and
  - g. Provide current documentation of the school's general liability insurance as set forth in subsection (E)(1)(h).
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. Continuing education. During each renewal cycle all instructors shall attend a total of ~~twelve~~ six hours of continuing education, ~~six~~ three in each ~~calendar~~ certification year ending October 31, as required by the continuing education policies in subsection (L).
  - e. ~~Pass the examination for certification required pursuant to subsection (E)(2)(e) to qualify for renewal of certification.~~
4. 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).~~

1. These requirements are contained in ACJA § 7-201(H).
2. In addition to the requirements in § 7-201(H), if the board determines that a school has committed an act of misconduct, resulting in either formal or informal discipline, the act of misconduct may be considered as an aggravating factor in any future complaint against another school owned in whole or part by the same owner or operated by the same principal.

**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 or division staff.
  - 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. Postal Service, 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 that 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.
  - (4) A school shall not use the Arizona Supreme Court logo or any other court logo on any of the school materials or in any way imply that the Arizona Supreme Court or any other Arizona court recommends or prefers a particular certified school. A certified school may provide information to the public that the school is certified by the Arizona Supreme Court, utilizing only the name associated with the active and valid certification of the school.
  - (5) A school shall not directly or indirectly assist court staff in acting in a manner prohibited by state law, court rule, or Arizona Code of Judicial Administration.
- 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 devices or laptop computers by students causing inattention or distractions 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
    - (i) may create distractions before, during, or after the presentation; or
    - (ii) is not configured in a traditional classroom or conference room configuration.
- 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, deceptive, or misleading advertising by omission, material misrepresentation, dishonesty, or fraud. A school shall not: ~~represent that attendance at the school is free or that the school is recommended or~~

~~preferred by the Arizona Supreme Court or any other Arizona court. 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.~~
- (1) Represent that attendance at the school is free;
- (2) Represent that the school is recommended or preferred by the supreme court or any other Arizona court;
- (3) Permit advertising during the presentation of its approved course;
- (4) Place, or cause to be placed, any materials on court property that advertise or identify the school, except for limited contact information intended to be used solely for court staff to contact the school;
- (5) Provide any rewards or incentives to a student or waive any student costs or fees in return for the student completing a survey, endorsing the school or referring other students to the school;
- (6) Misrepresent the costs to attend the course or assist any third party to do the same; or
- (7) Misrepresent other schools' course offerings, or assist any third party to do the same.

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 the school and 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. A school shall ensure that ~~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

(Fee is per each course delivery method utilized by a school)

~~a. Application year 2012:~~

~~Initial Certification \$ 4000.00~~

~~ba. Application year 2013 and after:~~

~~Initial Certification \$ 5000.00~~

2. Initial Instructor Certification Fees for Two Year Period.

Initial Certification \$ 50.00

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. Sale or transfer of school

a. Sale or transfer to new Arizona school owner \$ 1500.00

b. Sale or transfer to existing Arizona school owner \$ 500.00

5. Application for voluntary curriculum changes \$ 200.00

6. Application for changes to policies and procedures \$ 200.00

47. Renewal Certification Fees for Two Year Period.

a. School renewal \$ 1000.00

~~(1) Renewal year 2013:~~

~~Renewal fee for all schools~~ ~~\_\_\_\_\_~~ ~~\$ 750.00~~

~~(2) 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

58. 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 \$ 1000.00  
  
(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 delivery method application fee \$ 2000.00  
for a currently certified school

**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.



- (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~~ two 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, on-line computer seminars, interactive video, 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 online 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.~~

76. 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.~~

87. 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.

98. 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~~ six 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 1<sup>st</sup> preceding the October 31<sup>st</sup> 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.

~~409~~. 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.

Regarding Proposed Changes to

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

- (1) One non-voting certified instructor who have has worked as a certified instructor for at least five years;
- (2) Two judges from a limited jurisdiction court;
- (3) Two court administrators from limited jurisdiction courts;
- (4) Two non-voting 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) Two additional members appointed by the chief justice.

The non-voting members are not considered when determining a quorum.

Removing the Owner/Principal/Administrator voting seats from the Defensive Driving Board effectively suppresses meaningful input from School Owners. By changing the makeup of the Board in this suggested fashion, we move closer to adversarial relations instead of working together. The courts are currently represented by a Judge, two Court Administrators, and a special appointee made by the Chief Justice for a total of 4 voting seats which does not take into account the input regularly given by AOC staff that guides much of the Board's decisions; yet, 3 school owner seats which represent the owners at large are going to be removed to provide more input from the Courts. The majority already favors the courts.

If any change is to be made to this section, I suggest it be made to term limits. In my review of Board Member terms, I have found that out of 30 board members, 17 have been renewed for more than one term. Here are some observations:

- If the original members appointed in 2006, the longest a member remained on the board without special appointment was 5 years. The longest board member term of the current makeup is about to enter its 8th year filling one seat on the board.
- Filling vacant seats or renewing expired term seats has taken as long as 18 months. Delays like these can increase a member's term by approximately 50%.
- Of the 11 Defensive Driving Board Members, 2 are vacant and 2 have expired terms (one for as long as 9 months).

The board has been in place for approximately 11 years and there is a single member who has sat on the board for 7 years. The issue isn't that the school owners or instructors can vote, it is that we have had the same school representatives voting for well over half the board's tenure.

I suggest implementing term limits at 3 years and require, as was originally implemented in 2006, staggered renewals to ensure the board does not stagnate over time or changeover too quickly.

Steve

08 Sep 2017 01:25 PM

Below are some questions and Comments regarding the proposed regs for AJC 7-205:

Page 2 - Course Participation Questions

1. What does throughout mean exactly.

Page 3, 30-31 - Interactive Format.

1. Please define what an Interactive Format course should consist of.
2. Is the AOC no longer accepting text base courses?

Page 5 (4a 14)- Substantive questions embedded in the exam

1. Please be more specific to what this means.

Page 14 (sec 7) @5 Course Participation Questions (80% to pass and 5 ID Verification questions (100% to pass) with 30 seconds response time. And the course can be no shorter than 240 but no longer than 270 Minutes.

1. Please explain why this requirement exists.
2. Where is it required to ask these questions (anywhere in the course or ?)
3. What happens if someone wants to review the course and take longer than 270 minutes. Are we required to lock them out?

\* NO INSTRUCTOR REQUIRED FOR ONLINE COURSES?

Page 18 (b1) - If applicant fails to demonstrate that the applicant's curriculum is substantially different from the curriculum of other programs in which the applicant has common ownership or a financial interest.

1. Will definition in 18(b2) hold up in court because its vague.
2. What is AOC position if the course does not have common interest or financial interest and courses are not substantially different?
3. Someone could sell a course before submission (not notify the court) and the new owner can use a same course. We would end up simply opening up a different company who sells courses. Will not solve the list issue we are having now.

Page 18 (b4) - Clarify what "Decision are final to third parties" means?

Page 21 (j)- What is the policy notifying student of course fee when a school offers extras (ie Expedited service, and other services which have a fee but are offered later in the course (often students want additional services but choose these services at a later time)

Page 22(L) -

1. What is the purpose of limiting schools to change fees?
2. This is restriction of free trade and we should be able to change our price as often as we would like as long as the student knows the price up front before signing up for the course. (Not competitive friendly) Makes it hard to find the right price that works as markets and the economy are constantly changing .

Page 24 (17) -

1. Why can't a school charge for sending a PDF copy of the completion certificate. This is not required to complete the course.
2. How about a school must provide a receipt the courses was completed and can be done via email.

Page 31 (5 m, n,p) -

1. (5m) Why is it required for a school to refer an online student to a classroom school should they fail the exam. This is against statute as it states a court shall not favor one school over another.
2. (5n) This too is against statute. Should be removed.
3. (5p) Is the AOC requiring students to stop after 15 minutes to take a break? This is rather restrictive. Some schools courses are professional built and have theories on their level of instructional time. What proof does the Court have that 15 minute interval questions are better than the courses currently being offered?
4. Please clarify in detail what the Instructions for failing final exam must consist of. An example would be good.

Page 35 (25 c) -

1. Why do we have to hold funds in a special trust? Schools put a lot of work into qualifying a student and if they pay but do not take the course, why are we responsible for moving funds and tracking reporting these students. The refund policy is clear and unless it is followed according to the policy, we should not have to track students down and spend time and money paying them back? This is overburdensome!
2. Does the AOC give them back their \$20?

Page 42 (e2) - Removed Waive any costs or fees to attend the course.

1. Does this mean we can waive costs to attend the course?

Thank you for your time responding to my questions!  
Steve Soldis

Casey A

14 Sep 2017 03:37 PM

E. (k.) Pursuant to A.R.S. § 28-3395, the time allowed for the course, including a reasonable period of time to allow for an interactive format, 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

Comment: What is the purpose of having a maximum time limit of 270 minutes? Many of our older clients feel rushed and that they must race the clock to finish the course in no more than 270 minutes. By rushing our clients we feel they may not have the time they need to properly digest the information or work at their own pace, which is a benefit of taking an ADM course.

E. (k.) (7) If an ADM course, the examination course participation questions shall consist of twenty-five course participation questions and five identity verification questions having a maximum 30 second timeframe to respond to each question.

Comment: What's the intention of trying to remove examinations? Why not give ADM schools the choice to either offer the questions right after the content OR give an examination at the end of the program? Forcing students to answer questions under pressure (answering each within 30 seconds) will lead to an increase in failures and frustrated students. Examinations allow students to review/study/mentally prepare to answer questions.

F. 18. Ensure each student who takes an examination answers identity verification and course participation questions during following a defensive driving class receives notice of passing or failing the examination the course within 24 hours of the conclusion of the examination.

F(24)(d)(5)(f) Maintain a record of validation and course content questions and dates the examination was given for two years;

F(24)(d)(5) (l) Immediately refer any student caught cheating or being dishonest in participating in the course or examination to the court of jurisdiction;

Comment: The word "examination" has been removed from every section of the proposed text with the exception of these sections. The language should be consistent or include details allowing ADM's to offer either the examination or course participation questions during the program.

F(24)(d)(5) (m) Refer a student who fails the examination twice the course participation questions to the court of jurisdiction or to a traditional classroom course, time permitting;

Comment: Why remove the examination? How many course participation questions can the student miss? Why must the student be referred to a classroom course? If you are going to make it harder for the student to pass the course, why punish them by forcing them to go to a classroom? there is a reason they chose an ADM, (work schedule, kids, health).

F(24)(d)(5) (n) Provide a student who fails the examination the course participation questions 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 course participation questions; and

Comment: What's to prevent an ADM that also has a classroom course from just referring the student to one of their own classes?

(p) Divide the ADM course into segments of various lengths not to exceed 15 minutes and require the student to answer three substantive questions concerning the segment just completed correctly before the student can proceed to the next segment.

Comment: What are substantive questions? There is no definition in section A for this. The proposed text mentions course validation questions, identity validation questions and substantive questions.

Hugh Jones  
15 Sep 2017 01:02 PM

Please accept for review the attached PDF from RIGHT TURN Traffic Schools for 7-205

Alex  
15 Sep 2017 01:44 PM

Attached here are the NTSI Comments regarding proposed rule changes to ACJA 7-205.

Alex

15 Sep 2017 02:20 PM

----7-205(D)(4)(i); Page 6 of the PDF

The task of offering a student a class is the responsibility of the school. We would recommend removing the option to filter by "location and time."

This feature has been played out in the Motor Vehicle Division's Traffic Survival School (TSS) program since 2013. If we look to the public comments (<https://goo.gl/di7Y11>) made by school owners, we see complaint after complaint regarding the implementation of displaying School Locations, Dates, and Times as part of the student referral process. Even now, TSS Owners have been trying to work with the MVD to halt the abuse inherent with a distance locator. By the MVD Contractor's own report, 2 years after implementation of the distance locator, the number of cancelled classes was approximately 53%; startlingly, no follow-up report was ever issued on the number of class cancellations.

The Division should use the website to ensure students are being directed to Certified Schools; the website should not be used by the Division to try and limit the number of schools nor guide or aide students towards offerings made by schools. We do not oppose filters such as alphabetical listings, county, modality, language, randomization, and/or area code on phone numbers. However, the listings should not default to any predetermined filling as this would favor those schools optimized for that default filter in direct contradiction to ARS 28-3393(2)(C) that requires the court not to favor any school over another.

Simply because a school has an office in the outlying area does not mean they should be excluded from results presented to all students as would be the case in a location and date filter. This is further complicates the competitiveness of businesses as a school may not receive calls from a city or underserved part of a county which may spur that school to open up classes in that area.

The Division should not implement any referral process based upon location and time. This will most likely have the same, negative impact it had in the TSS program.

----7-205(D)(6)(b); Page 8 of the PDF

We support this change and would suggest additional language be added in (F) to include language that shall not permit School officials, employees, or contractors from soliciting a judge, court official or employee, either directly or indirectly, any compensation, incentive, or marketing materials to circumvent the Division's website outlined in 7-205(D)(4)(i) (Page 6 of the PDF). The Schools should be held to the same standards as Courts.

----7-205(D)(6)(c)(6); Page 9 of the PDF

We support changes intended to streamline fund transfers from Schools to Courts.

Whether standards adopted for electronic payment are centralized through the Division or handled independently by the Courts, we would suggest language that encourages as little human interaction as possible to submit payments. In our experience, it is a lot easier to cut and send 200 checks than it is to manually log in to 100 different payment portals, transmit funds, and logout.

----7-205(E)(1)(h); Page 12 of the PDF

We support this change and would suggest that each company be required to acquire a bond of no less than \$1,000,000. As schools are collecting substantially more money in trust for the State and the Courts, such a bond would ensure, in the event of a school absconding with the funds entrusted to them, the State, Courts, and Public would be made whole.

----7-205(E)(1)(k); Page 13 of the PDF

While we encourage requirements to improve curriculum by including behavior modification strategies, we do not feel this language is strong enough. How will the Division determine a behavior modification strategy? How can the Division know if a behavior modification strategy, though included, is being used properly?

Without continued measurement of the effect our programs have on the public, a school could claim behavior modification without actually modifying participants' behavior.

----7-205(E)(1)(k)(1)(c); Page 13 of the PDF

We support the addition of inattention and distractions as part of the course criteria; however, we believe the listing of Texting and Mobile devices is incorrect. We should list these specific items as the required topics; rather, we suggest listing the following:

- Inattention and distractions, including;
  - Assessing distractions
  - Physical Distraction
  - Cognitive Distraction
  - Combination of the above two
  - Sensory Overload
  - Inattentive Blindness
  - Psychological Factors
  - Common Distracted Driving Behaviors
  - Self-Assessment of actions/risky behavior
  - Statistics and impact of Distracted Driving

----7-205(E)(1)(k)(6); Page 14 of the PDF

We support the inclusion of behavior modification strategies that may impact student behavior; however, simply requiring discussion of behavior modification topics does not inherently translate to modifying student behavior. A school could write curriculum that discusses any required topic the Director sets forth, but without verification of course success this requirement shall most likely fail to improve proper behavior modification strategies as implemented by the schools.

----7-205(E)(1)(l)(2); Page 14 of the PDF

We do not oppose requiring operations Monday through Friday 9am to 5pm (the same hours of operation offered by Courts); however, we are against requiring schools to work longer hours than the courts are themselves willing to offer defendants. Requiring weekend or after business hour support is incredibly overbearing of the court; especially as Courts have been known to take furlough days during the week throughout the state.

Schools should be operating during the same hours the Courts are operating; no more, no less.

----7-205(E)(1)(l)(3); Page 15 of the PDF

We do not oppose requiring schools to provide clarifying information to the AOC as to staffing; however, since schools are not allowed to change any facet of their operations without prior Board Approval, this language, included here, is too burdensome. Onboarding staff, extending or decreasing hours ebbs and flows with the market and cannot wait for the bureaucratic processes that would require board approval.

We do support schools committing to responding to student or court inquiries within 1 business day, but this information is already included in the rule and would be redundant (redacted code requirement 7-205(E)(5)(j)).

Shall this specific detail be used as a "Currently Available" filter for the website outlined in 7-205(D)(4)(i) (Page 6 of the PDF)?

Shall this specific detail be required to be posted on the School's Landing Page?

We recommend striking this language or removing the requirement of receiving Board Approval to adjust or change hours of operation.

We recommend defining a "prompt response" to one business day.

----7-205(E)(4)(b); Page 18 of the PDF

We are opposed to this language and suggest it be struck.

"Substantially different" is subjective and shall be subject to personal biases. Furthermore, if a school is deploying certain behavior modification strategies, they may be forced to present content in similar ways;

otherwise, changing the order or deviating from established, effective practices may result in reduced efficacy of the program as a whole.

This language goes to great length to try and prevent schools from utilizing existing curriculum; curriculum that may be some of the only proven effective content on the market that is known to reduce collisions and/or violations.

It should not be within the Division's nor the Board's authority to prevent schools from doing anything other than offering the best, most effective educational course content possible. The inclusion of this language seems more anticompetitive than practical and this saddens me to have to say:

Substantially different does not mean better quality.

----7-205(E)(5); Page 19 of the PDF

In the past few meetings it has been said these rules will be in effect upon renewal and no schools will be grandfathered. Also at several Board Meetings, there have been repetitive discussion on the misleading language of "Faster," "Cheaper," or "Easier" and other variances of the same in several school names.

Will schools with names that were approved by the board who would have otherwise been considered misleading have to change their school names? If no, under what criteria will these schools be grandfathered as the board previously expressed concern about approving a school simply based on the school name? If yes, when shall the Division notify a school and how much time will they have to conform with this new rule?

We do not oppose the idea that the Division can limit the appearance of a school name on their website, but we take great issue with the Division dictating to any private citizen how many characters they can have in their business name. If the Division wants to only display 50 characters on their site, so be it. However, if I want to have a lengthy title that is approved under the criteria of the Corporations Commission or Secretary of State, the Division should not impede on my right to do so. We suggest moving the information on length, format to be displayed, etc to 7-205(D)(4)(i) (Page 6 of the PDF) as the Court has autonomy on their own website.

The division previously stated in proposed changes 7-205(E)(4)(b) (Page 18 of the PDF) that the Board is not authorized to enforce a third party's copyright, but with language in this section the Board is positioning itself to enforce a third party's trade name. The name of a school is not the Board's responsibility. Let the governing bodies (Corporation Commission and Secretary of State) and the market decide if a name is good or not.

----7-205(F)(5)(h); Page 21 of the PDF

This particular rule has been vague from the outset. We would like to see clarification and definition of "Third-party Contracts" that need approval. If we contract with one leasing agency for office space and

switch to another, must we first wait for approval from the Board before executing the contract? If we choose Comcast over Cox for internet services, if we change from one package tier to another, or if we hire a contract, already approved instructor must we first wait for the Board to give their blessing?

Furthermore, there does not appear to be a limitation as to scope and reach here. If I contract with a third party for services in Guam or enter into a contract to provide services for the City of New York, must I first get approval from Board before being allowed to execute that agreement for fear of losing my certification? This rule is far too cumbersome and has been loosely used over the years. We suggest removal of this language.

----7-205(F)(5)(j); Page 21 of the PDF

This language has never fully been implemented as written because it is impossible.

I am unable to provide the total school fee in all information or materials provided to students until I am able to learn what court issued the student's citation. Before I am able to collect the student's court information, I must first provide information to the student requesting specific, accurate detail in order to provide the total school fee. Historically, the Division has ignored the "all information or materials provided to students" part of this rule until a school receives the court information from the student. This language should be struck or made clear that once we have all the detail necessary to provide the total school fee, a school is obligated to display the total school fee.

The inclusion of the language "The school when providing the total school fee may not refer the potential student to other portions of the webpage." is confusing and unclear. I am unable to say, on the landing page, "Click here for total cost to attend" which would direct the student to a section further down on the page?

The way this rule is currently written, I must intuitively know which court a student's violation was issued through to display the total school fee and I cannot direct a student to scroll down a webpage or provide a link to find the total cost calculator. The total cost to attend should be conspicuously displayed, but information required to display that total cost requires student input and thus cannot be displayed at all times in all information provided to students. Moreover, if we are unable to refer a student to another portion of our webpage (the same page, not the same website), the Division is preventing us from providing additional, useful information that may better inform the consumer; effectively, we are prohibited from providing customer service to our potential clients.

----7-205(F)(23); Page 25 of the PDF

It is absolutely impractical and burdensome for a school to be forced to abide by the language "Once scheduled, except for extraordinary circumstances, the date, time and location of the class cannot be changed or cancelled." I completely understand the intent behind preventing nefarious scheduling of class dates and locations and the class shuffling that is guaranteed to occur once a filter for Location and Time is implemented, but this change prevents practical, everyday business decisions.

First and foremost, if a class is not going to be profitable (i.e. the amount earned in school fees is not greater than the cost of renting a facility, paying an instructor, travel reimbursement [if applicable], and any other fees that may apply), a school must not be forced to hold the class at a loss. Even the American Disabilities Act has a provision for burdensome accommodations; yet, here the Division is indicating that the burden to schools is of no consequence. There is no way to know ahead of scheduling a class whether that class is going to attract enough students to cover operating costs. If I could predict which classes were going to be profitable before I scheduled them, I would be a millionaire.

Secondly, there are tons of practical reasons for adjusting location, date, and time of a scheduled class. We schedule classes 90 days in advance and often rent varying sizes of conference space. If a class grows to a certain size and we have an opportunity to shift the class location to the hotel next door or across the street which has bigger space to accommodate more students, we should be able to make the effort of contacting all our students to inform them of the change. This action is currently allowed, but is not incentivized as it would be if the Division adds a filter for Location and Time. Currently, this change would be customer and business oriented: ensure students are more comfortable and capture more students in a class.

The inverse of the above situation is also possible. If I schedule a class well in advance at one space and find that the space chosen is too large and too expensive for the amount of scheduled students, I could seek a smaller, cheaper space to conduct the class instead of cancelling it. Again, this issue is not incentivized in Defensive Driving since students are picking schools based on a specific date or location from the Division's website.

Additionally, we schedule multiple classes pulling from a pool of instructors. If we need to accommodate an instructor change-- which may include shifting instructors between classes without cancelling classes-- , we would be limited in time frame of being able to do so and quite possibly fined for doing so. 14 calendar days before a class is way too long a timeframe to know if a change is going to be required. 72 hours ahead of the scheduled class is reasonable, but not 336 hours.

This language is ludicrous. Implementing a filter for Location, Date, and Time will spark a foreseeable problem (bogus scheduled classes and class cancellations) and thus this proposed language seeks to preempt that issue via a scorched earth approach; everyone will be punished to prevent a problem created via a filter implementation by the Division.

We suggest limiting class cancellations, location changes, instructor changes, date changes, and time changes to 72 hours ahead of the class. We strongly suggest not implementing a filter for location, date, and time on the Division's site which will incentivize the problems this proposed language seeks to prevent.

----7-205(F)(24)(c)(2); Page 27 of the PDF

We are deeply concerned about the language disregarding any financial burden to schools that may go into determining whether a class shall be held or cancelled. Even Colleges and Universities close classes

that do not have enough people registered after posting them for enrollment. It is not right to have a state agency force this burden on schools.

If the Division wishes to have schools identify in their administrative procedure manuals how determination for class cancellations are made and under what criteria, then please require that information to be submitted as part of 7-205(E)(1)(l) (Page 14 of the PDF) and hold us to those standards.

We shall vehemently oppose any language that seeks to infringe on our rights to make operational decisions that will impact the viability of our businesses. We operate within the rules. Rules aren't meant to operate our businesses.

---7-205(F)(24)(d)(b); Page 29 of the PDF

7-205(F)(17)(d) indicates a court order may be used in place of a citation for a class. Additionally, we have received verification from several courts and the AOC that extension paperwork may be used in place of the citation if it contains all the relevant information.

Can we still accept extension documents in lieu of citations?

For continuity, we suggest adding "or court order" here or refer back to 7-205(F)(17)(d) for acceptable criteria used for verifying eligibility. If extension documents can be accepted, please include that language here, too.

---7-205(F)(24)(d)(5)(n); Page 31 of the PDF

How many times can a student complete the final exam for ADM?

Why should a student be referred to a classroom course if they fail an online course? The reasoning we can think of is if there is some belief that classroom is better than online; which would be a believe, if implemented by the court, in direct violation of ARS 28-3393(2)(C). Naturally, if I am a provider of ADM and traditional classroom, I would offer a classroom program.

Requiring referral to only another provider's classroom course seems biased in favor of classroom format schools. This language should be struck.

---7-205(F)(24)(d)(5)(p); Page 31 of the PDF

This is referred to as "Chunking." We are in support of language that improves course structure, but, again, without after-the-fact verification, these changes are just for show.

While we are in favor of improved standards of online delivery, we take issue with the inclusion of the language "require the student to answer three substantive questions concerning the segment just completed correctly before the student can proceed to the next segment." Our course is comprised of 85

different topics which may be interpreted as 85 individual segments. Requiring 3 questions after each segment would be less educational and more burdensome.

We suggest removing the number of required questions and suggest the questions appeared at the end of all relevant topics instead of each segment completed.

----7-205(F)(32); Page 39 of the PDF

This language, coupled with previously proposed language (7-205(E)(4)(b); Page 18 of the PDF) leads to some very difficult questions. What happens if a school (Company A) purchases another school (Company B)--consolidation of businesses/buyouts being a common market force--wherein that Company B is an approved school with an approved curriculum that, had the curriculum been submitted by Company A would have been found substantially similar?

Is this curriculum once more reviewed during purchase proceedings or once more at renewal? Is the Board now acting as a regulatory agency approving and disapproving the sale of schools to one another?

All this language to ensure different curriculum, specifically worded to ensure that copyrights are the responsibility of the copyright holders and not a matter under the authority of the Division, creates additional loopholes that would be closed if the Division simply required submitted curricula to be proven effective via verifiable research from a federal, state, or local government agency.

----7-205(H)(2); Page 40 of the PDF

We oppose the concatenation of violations between individual businesses and topics. This language is far too broad as everything under the sun shall be strung together to become an "aggravating factor" for future censorship of employees or businesses the Board or Division finds bothersome. Topics of varying severity (not responding to an email in a timely matter versus not reconciling the trust account properly as an example) should not be lumped together to attack the certification of a school.

This language should be struck.

**Arizona Traffic Safety Institute LLC**  
**15 Sep 2017 02:33 PM**

Based on this version of proposed language, we find that language protecting consumers is severely lacking.

Primarily, we think the Division can do more to protect consumer confidentiality. There are are minimum standards currently implemented within 7-205 that require Schools to track or even report breach of security which may compromise student information.

All the information we collect is protected under the Federal Driver Privacy Protection Act, yet there is no minimum standard for secure networks, protection of student information (i.e. bonded staff, locked/secured cabinets, etc.).

Language should be included that requires schools to meet, at a minimum, the same technological standards by which the Supreme Court is obligated to abide.

Comments were previously submitted about breaches to Chipotle, Arby's, Target, and now Equifax. The impact of improper handling of extremely sensitive information should not be taken lightly.

Minimum standards must be in place to protect consumers.

**Bob Grossman**

**15 Sep 2017 05:40 PM**

Fee Schedule, Page 45, Application for voluntary curriculum changes

Under what circumstances would this fee for voluntary curriculum changes be assessed?

My classroom format presentation includes one slide that I change with every class. The title and subject remain the same but the content changes (it is a bar graph displaying the various violations committed by the students attending the class). Would that change require payment several times every week?

What about typographical error correction?

Once a year I update the AZ Crash Facts statistics as they become available from the AZ Governors Office for Highway Safety. Will this require payment of a fee?

What if I change the order of the slides in my presentation? More payment?

**Gary Alexander**  
**15 Sep 2017 08:29 PM**

Page 18 (b1) - If applicant fails to demonstrate that the applicant's curriculum is substantially different from the curriculum of other programs in which the applicant has common ownership or a financial interest.

This seems to be very vague. Considering that AOC provides a very specific criteria of what has to be covered in each course, all courses have many similarities. So how does substantially different will be defined and by whom? Seems very subjective. Under this scenario someone can move paragraphs around, change some words and images and have a new course in less than an hour. This solution alone will not solve the problem of having one person controlling 100s of schools or offering additional value to students

Considering that Consumer Privacy and Data security is a serious issue, highlighted by a recent breach of Equifax . Why schools are not required to comply and demonstrate any compliance to protect sensitive consumer data? It should be AOCs priority to ensure that sensitive data that is collected is properly handled and secured.

#### Suggestion

Each school should have a designated server and data access that is secure and properly hosted meeting same criteria as required of other state contractors. No two schools can share same server. No single employee can have access to records of more than one school

We also would like to suggest a language that NO two schools can share the same answering service/staff to avoid funneling and unfair competition.

JJ

18 Sep 2017 03:27 PM

My comments would be:

1. These rules are for licensing new schools. How will AOC make the older school compliant? So the rules will be the same for everyone.
2. For ADM Course: How will AOC ensure that when a school submits a program that meets the requirements – that school will not change everything after the approval, and provide students with a different, much easier program that actually doesn't meet the requirements?
3. What will be the time frames/deadlines for correcting violations given to schools that are in violation?
4. What are the reasonable penalties for schools that systematically (more than once) violate the rules? If they are given a deadline to correct something and they don't do it on time, or if they do the same violation again in the future – what is the adequate punishment that would make those schools not want to do this again?
5. There should be a 2 year limit for each school owner on the Board.
6. The text under: 24. d. (5)(i) (ii) - (page 31). ADM school:
  - (i) Shall provide its course in an interactive format and maintain evidence the student engaged in active participation during the presentation of the course, to include:
  - (ii) system logging off a student for inactivity -- This is very hard to implement from a technical standpoint. How can you prove that the student was logged out due to inactivity and didn't log out by himself/herself!? Why is this needed? Why the ADM school owners should invest so much more effort on things like this?
7. The list of schools on azdrive.com is randomized. This means to me that it's like a lottery and it doesn't guarantee the same number of times in top 5 for every school. When you play a lottery, some numbers get withdrawn much more often than others. This is especially not good for businesses with only one school (their school may rarely get on top). If that is the case - some type of random rotation would be more fair, ensuring that each school is listed equally often on top.
8. The Final Quiz of 25 questions should be taken for 12.5 min total (instead of for 30sec per question). If questions are asked during the class – they should be 30sec per question but measuring the total duration should also be allowed (a quiz of 5 questions to be done in 2.5min)
  - a. How many quizzes have we taken in our lives that measure the time per question... ?
9. The emphasis is too much on the Interactive Format and logging out students in a bunch of occasions. The ADM class is becoming way too long and difficult for some people. And it should be actually easy for everyone.

- a. After all, they have paid their fees and expect this class to be similar to other online classes they have taken.
- b. The Final Quiz requirement is enough to make them pay attention in class.
- c. The result of all these super requirements is that some students take the ADM Course for 5-6 hrs. instead of 4 because they get constantly logged out. They have never taken such a strict class.
- d. All the interactive format requirements need to be cut at least in half (one or the other, not all together).
  - i. The 15 min requirement is not necessary.
  - ii. This class is not to get a professional license or a degree, but just to dismiss a ticket after paying a court fee anyway, reading for 4hrs, and taking a quiz. Even the online classes for professional licenses don't have such stringent participation requirements.
- e. The ADM course shouldn't be so much more difficult than the Classroom course.
  - i. The Classroom course doesn't have any interaction or participation requirements
  - ii. Someone can just be physically in the classroom while thinking of something else and not even listening... So why the ADM class should require all the participation and interaction?
- f. Generally speaking - things are offered online as a convenience to the public. The trend is reversing in our case. It is becoming easier and more convenient for people to go to a classroom course...
- g. If AOC wants to have such stringent participation/interaction requirements for the ADM course – then let's remove the Final Quiz!
- h. All these requirements create conditions for manipulations because some schools get one version of their ADM course approved by AOC, and then offer a different, easy version to the public.

Thanks

David Irons

18 Sep 2017 03:38 PM

-----7-205(D)(5)(a)-----

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

- (1) One non-voting certified instructor who have has worked as a certified instructor for at least five years;
- (2) Two judges from a limited jurisdiction court;
- (3) Two court administrators from limited jurisdiction courts;
- (4) Two non-voting owner's, 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) Two additional members appointed by the chief justice.

The non-voting members are not considered when determining a quorum."

Comment: Making the school owners and the instructor non-voting members does not incentivize the school industry to work with the courts. They would just be like the voice of the people at public comment. Would there really be a need to even have industry members on the board if they cannot vote? If so, what for? Otherwise they would be just public comments on a chair. Instead of limiting the number of voting members from the industry, I suggest we increase that number, since it is the school owners, instructors and related employees who would want to better the industry as it is done in other states, like Florida. Suggest that these changes be stricken.

-----7-205(D)(5)(m);

"Refer a student who fails the examination twice the course participation questions to the court of jurisdiction or to a traditional classroom course, time permitting;"

Comment: This would be against the statute that prevents the courts from favoring one school over another.

-----7-205(E)(1)(k); Page 13 of the PDF-----

"Defensive driving courses shall be presented in a manner to encourage behavior modification with the purpose of reducing driving violations and accidents."

Comment: While I agree that all schools should be improving driver behavior, I do not believe that making schools present the course in a manner that encourages behavior modification will actually result in behavior modification. There needs to be a way to measure this language to ensure that the schools are actually modifying behavior.

-----7-205(E)(1)(k)(1)(c); Page 13 of the PDF-----

Comment: While I do believe that this is an important topic, I believe that we are barely scratching the surface. There are multiple studies across many states that address this topic in much greater detail. I

suggest that we expand much more in this topic. Suggest we add the following subject matters that belong with in this topic:

Types of Distraction:

Visual (Takes your eyes off the road)

Mental (Takes your mind off the road)

Manual (Takes your hands off of driving)

And much much more

More information can be found here:

<https://goo.gl/jLgah3>

<https://goo.gl/XPnxPw>

<https://goo.gl/cd8VCz>

<https://goo.gl/mzVxeE>

<https://goo.gl/qkFv5E>

-----7-205(E)(4)(b)(ii); Page 18 of the PDF-----

"A person participating in both classes would not understand from the presentation that there was common ownership."

Comment: How can this be enforced, this is too subjective and in the hands of the student, whereby almost every student would have a different opinion. Suggest that this language be stricken. In addition to having this language be very subjective, it most certainly does not improve the quality of the Defensive Driving Program.

-----7-205(F)(5)(h); Page 21 of the PDF-----

Comment: This needs more clarification as almost any business service can be a "Third Party Contract". If I decide to switch one internet service provider to another one, will this be required to get approved before I can do this? If we have to wait for approval for a third party contract, the market can change and harm businesses. Suggest this language either be stricken or go more in depth with explaining what type of third party contract would be included.

-----7-205(F)(23); Page of the PDF-----

Comment: This language ("Extraordinary Circumstances") should be removed or at least clarified. For example, if I have a class scheduled to the maximum amount of students in a location, and the last student that signed up for the class is deaf, I now need to hire two additional interpreters for this location, which would force me to hold a class while breaking fire code on that location due to these rule changes. Another example is if I schedule a class in a smaller location because usually that class never fills up, but this time I have almost double the amount of students, requiring me to move to a better location that can better accommodate my students, these rules will not allow me to do so. Suggest this language be stricken.

-----7-205(F)(24)(d)(5)(n); Page of the PDF-----

Comment: I believe that this language can be interpreted as having some schools favored over another, which would be directly against statute. Suggest this language be stricken.

**Debra G**

**18 Sep 2017 04:01 PM**

In connection with Page 18, Paragraph (b) The board shall refuse to certify an ADM applicant or course for certification:

Why does this not apply to traditional classroom schools as well? Why should traditional classroom schools be exempt from the requirements to maintain substantially different curriculums or be exempt from the common ownership rules. This almost appear to be an oversight.

In connection with Voluntary Curriculum changes, Page 45 Section 5:

Please specific what constitutes a change or what kind of change would require the \$200.00 fee. In other words, are you referring to substantive changes as in new topics? I am wondering if the changes applies to simple modifications like updating annual crash statistics, order of slides, typographical errors. Please confirm what constitutes a chargeable curriculum change fee.

**18 Sep 2017 04:36 PM**

In connection with Page 12, Section E Initial Certification (f) - I believe all certified schools on the list including the IVR List, should have a unique federal and state identification number that can not be used by any another school on the list.

**WestValleyPHXDDS**  
**18 Sep 2017 04:18 PM**

Page 3

"School" means an entity HAVING A SEPARATE FEDERAL TAX ID NUMBER UNIQUE TO THAT ONE SCHOOL IS 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.

Page 6-7

i. Implement and maintain a website and IVR listing certified schools IN COMPLIANCE WITH MEETING THE MONTHLY MINIMUM REQUIREMENT OF CONDUCTING ONE CLASS PER MONTH PER SCHOOL PER COUNTY FOR CLASSROOM DEFENSIVE DRIVING SCHOOLS.

The font, spacing and other factors related to visual appearance of a school listing on the website shall be consistent among all schools listed. As determined by the division director, the website shall allow the public to filter, by among other things, language, location and time and results shall be randomized. The website and IVR are maintained for the purpose of educating the public as to the public's choices when selecting a defensive driving course and is not intended to be utilized as a marketing tool by an owner providing the same options to the public by different certified schools TO BE IN COMPLIANCE WITH BEING MAINTAINED ON THE LIST AN OWNER OF MORE THAN ONE SCHOOL MUST PROVIDE A SEPARATE EIN FOR EACH SCHOOL LISTED AND UNIQUE, SEPARATE WEBSITES AND SUBSTANTIALLY DIFFERENT CURRICULUM FOR EACH CLASSROOM AND ADM DEFENSIVE DRIVING SCHOOL LISTED.

Page 9

Needs to be left intact.

E. A COURT SHALL NOT PROMOTE OR FAVOR ANY SUPREME COURT CERTIFIED DEFENSIVE DRIVING SCHOOL OVER ANOTHER.

Page 24 THIS NOT BE STRICKEN.

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.

**18 Sep 2017 04:53 PM**

PG 25 ONCE SCHEDULED WHETHER ON THE SCHOOL'S WEBSITE OR THE AOC WEBSITE, THE CLASS CANNOT BE CANCELLED.

**18 Sep 2017 07:29 PM**

My friend Rose constantly asks, how do ADM schools know it's the offender taking the class. But since I only offer classroom, I don't know how to answer her question. How does the school and AOC truly know, it is the registered student taking the ADM online class.

A. Tazioli  
18 Sep 2017 11:02 PM

Please see the attached comments from Marla Keller and Borna Mozafari.

To: Certification & Licensing Division  
From: Marla Keller and Borna Mozafari  
Re: Public Comments Regarding Proposed Changes to the Arizona Code of Judicial Administration § 7-205: Defensive Driving

1. 7-205(A): Pages 1-3 of PDF: Definitions
  - The following terms are used throughout the proposed changes to § 7-205, however, these terms are not defined in the definitions section: Substantive Questions, Substantially Different Curriculum, Common Ownership
  - Co-Mingling: What is the rationale for this definition?
2. 7-205(D)(4)(a)(14): Page 5 of PDF: Substantive Questions
  - What are substantive questions?
3. 7-205(D)(4)(i): Page 6 of PDF  
7-205(D)(5)(b): Page 7 of PDF  
7-205(E)(5)(a-b): Page 19 of PDF: School Names
  - How will the Board be fair when deciding names? Will there be a criteria for approval?
  - Current names should be grand-fathered in. Schools have spent considerable money obtaining a trademark and/or copyright on their names. Additionally, requiring a school to change its name is extremely costly for each school. Schools have spent tens of thousands of dollars on marketing each school name, and the costs associated with changing a name (changing a website, changing a logo, changing printed materials, changing trademarks/copyrights, and changing search tools on Google) would be detrimental to each individual school.
4. 7-205(D)(5)(a): Page 7 of PDF: Composition of Defensive Driving Board
  - There should be term limits imposed on board members.
  - School owners that sit on the defensive driving board are privy to other schools' confidential business information which can be used to their benefit. Terms limits for school owners should be limited to 6mos-1 year. Different owners should serve on the board and those owners that have already served on the board should not be able to serve for another 2 years.
5. 7-205(E)(1)(k): Page 13-14 of PDF: Interactive Format for ADM Courses
  - Substantive Questions: Again, this needs to be defined.
  - Interactive Format: How is this different than what ADM schools do now?

6. 7-205(E)(4)(b): Page 18 of PDF (Decision Regarding Certification for Schools)
- **We propose one curriculum per school owner. For example, if a school owner has 5 schools, then all 5 schools should be allowed to use the same curriculum.**
  - The definition of the term "substantially different" is too vague and subjective.
  - **How** is the applicant supposed to demonstrate that its curriculum is substantially different from the curriculum of other programs in which the applicant has common ownership or financial interest? Is there a template for this?
  - What specific criteria will the Board/Division be reviewing?
  - If the curriculum is required to contain certain topics (as outlined in 7-205(E)(1)(k)), how can the curriculum even be "substantially different" from the curriculum of other programs?
  - This provision prevents schools from using curriculum which has already been approved by the Division. Changing curriculum which has already been approved would be cost-prohibitive to school owners and would be burdensome on the Division.
  - Subsection 4: "Decision of the board concerning substantially different curriculum are final as to third parties." It is unclear as to who a "third party" is under these circumstances.
  - If this language stands (which it should not because it is vague and subjective), and the board refuses to certify an ADM applicant, can the ADM applicant appeal? Or re-apply? Will the Division advise the ADM applicant the specific reasons why the board refused to certify the school?
  - This proposed section does not address an entity that franchises or sells its curriculum to someone else. It appears that this would be allowed under this proposed language, as two different school owners, with no common financial interest, can use the same curriculum. Is that correct? A school should not be able to sell its curriculum to another school owner. Every school owner should have to write his or her own unique curriculum and be able to use this curriculum for all of the schools that they own.
  - Defensive driving schools should be allowed to offer video courses and booklets.
7. 7-205(F)(5)(k-l): Page 21-22 of PDF: Fees
- A minimum price should be set for the following reasons:
    - Implementing a minimum price would ensure a quality course and ensure that each school could provide adequate customer service to address student needs and court requirements.
    - Schools are required to collect money on the courts' behalf which is very expensive to do in light of additional administrative costs, merchant fees, and hiring additional staff. Because of this we need to have a minimum price to be able to conduct business for both the courts and the schools and maintain quality service for the student.
    - If there is no minimum set price, one company could offer a \$5.00 class for a short term just to put all other schools out of business and then raise the price once most competitors have ceased operations. This is happening in California now. There are big schools offering courses for as low as \$3.00, and these big schools are opening hundreds of schools just to put the small schools out of

business and then they will raise the prices. This is not good for the students or the schools.

- Since schools can only change their prices every 6 months per the current rules, it limits each school's free market ability to change price at any time based on competition. Also, if the school board members can see the proposed prices for the schools, then these board members can change their prices accordingly, which puts other schools at a disadvantage. A price war hurts everyone, including the consumer, due to decreased quality of service and fewer schools competing to offer more choices to students. Having a minimum price will level the playing field for all schools so they are competing on other factors --not just price.

8. 7-205(F)(24)(d)(5): Page 30-31 of PDF: ADM School Requirements

- The current code allows a student to take the examination two times. What is the rationale for not allowing a retest?
- Requiring a student that fails the test to take a classroom exam causes financial harm to the ADM school. A failing student that has to now enroll in a classroom course will likely "stop payment," which means the ADM school provided a service and received no payment. Moreover, the ADM school will have likely already sent the fees for that student to the respective court, which means the ADM school is out additional money. (Note that an ADM cannot refund the state fee or state surcharge for a student failing- page 37 of PDF)
- The proposed code change unfairly favors classroom schools.
- Students should be allowed to take the examination twice. If the student fails, then they should be allowed to retake the same course as many times as needed to pass. Each time they repeat the course they are learning something new which is the purpose of the course.

9. 7-205(J)(1)(e): Page 42 of PDF: Advertising

- The proposed change does not allow a school to "provide any reward or incentive to a student...in return for a completing a survey, endorsing the school or referring other students to the school."
- What is the rationale for this?
- Why can't a student who has already completed the course refer another person to the course with or without incentive? If they learned from the course and felt it was a good experience what is wrong with them referring another person to the course? This is a very common practice with many online schools and businesses.

7-205(D)(4)(i); Page 6 of the PDF

Implement and maintain a website and IVR listing certified schools. The font, spacing and other factors related to visual appearance of a school listing on the website shall be consistent among all schools listed. As determined by the division director, the website shall allow the public to filter, by among other things, language, location and time and results shall be randomized. The website and IVR are maintained for the purpose of educating the public as to the public's choices when selecting a defensive driving course and is not intended to be utilized as a marketing tool by an owner providing the same options to the public by different certified schools.

The task of offering a student a class is the responsibility of the school. We would recommend removing the option to filter by "location and time."

This feature has been played out in the Motor Vehicle Division's Traffic Survival School (TSS) program since 2013. If we look to the public comments (<https://goo.gl/di7Y11>) made by school owners, we see complaint after complaint regarding the implementation of displaying School Locations, Dates, and Times as part of the student referral process. Even now, TSS Owners have been trying to work with the MVD to halt the abuse inherent with a distance locator. By the MVD Contractor's own report, 2 years after implementation of the distance locator, the number of cancelled classes was approximately 53%; startlingly, no follow-up report was ever issued on the number of class cancellations.

The Division should use the website to ensure students are being directed to Certified Schools; the website should not be used by the Division to try and limit the number of schools nor guide or aide students towards offerings made by schools. We do not oppose filters such as alphabetical listings, county, modality, language, randomization, and/or area code on phone numbers. However, the listings should not default to any predetermined filling as this would favor those schools optimized for that default filter in direct contradiction to ARS 28-3393(2)(C) that requires the court not to favor any school over another.

Simply because a school has an office in the outlying area does not mean they should be excluded from results presented to all students as would be the case in a location and date filter. This is further complicates the competitiveness of businesses as a school may not receive calls from a city or underserved part of a county which may spur that school to open up classes in that area.

The Division should not implement any referral process based upon location and time. This will most likely have the same, negative impact it had in the TSS program.

7-205(D)(5)(a); Page 7 of the PDF

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

- (1) One non-voting certified instructor who have has worked as a certified instructor for at least five years;
- (2) Two judges from a limited jurisdiction court;
- (3) Two court administrators from limited jurisdiction courts;
- (4) Two non-voting 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) Two additional members appointed by the chief justice.

The non-voting members are not considered when determining a quorum.

Removing the Owner/Principal/Administrator voting seats from the Defensive Driving Board effectively suppresses meaningful input from School Owners. By changing the makeup of the Board in this suggested fashion, we move closer to adversarial relations instead of working together. The courts are currently represented by a Judge, two Court Administrators, and a special appointee made by the Chief Justice for a total of 4 voting seats which does not take into account the input regularly given by AOC staff that guides much of the Board's decisions; yet, 3 school owner seats which represent the owners at large are going to be removed to provide more input from the Courts. The majority already favors the courts.

If any change is to be made to this section, I suggest it be made to term limits. In my review of Board Member terms, I have found that out of 30 board members, 17 have been renewed for more than one term. Here are some disturbing facts:

- Of the original members appointed in 2006, the longest a member remained on the board without special appointment was 5 years. The longest board member term of the current makeup is about to enter its 8th year filling one seat on the board.
- Filling vacant seats or renewing expired term seats has taken as long as 18 months. Delays like these can increase a member's term by approximately 50%.
- Of the 11 Defensive Driving Board Members, 2 are vacant and 2 have expired terms (one for as long as 9 months).

The board has been in place for approximately 11 years and there is a single member who has sat on the board for 7 years. The issue isn't that the school owners or instructors can vote, it is that we have had the same school representatives voting for well over half the board's tenure.

Lock terms at 3 years and require, as was originally implemented in 2006, staggered renewals to ensure the board does not stagnate over time or changeover too quickly.

7-205(D)(6)(b); Page 8 of the PDF

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

We support this change and would suggest additional language be added in (F) to include language that shall not permit School officials, employees, or contractors from soliciting a judge, court official or employee, either directly or indirectly, any compensation, incentive, or marketing materials to circumvent the Division's website outlined in 7-205(D)(4)(i) (Page 6 of the PDF). The Schools should be held to the same standards as Courts.

7-205(D)(6)(c)(6); Page 9 of the PDF

Implement requirements for electronic reporting of school completions and for financial management and distribution of funds as adopted by the Director.

We support changes intended to streamline fund transfers from Schools to Courts.

Whether standards adopted for electronic payment are centralized through the Division or handled independently by the Courts, we would suggest language that encourages as little human interaction as possible to submit payments. In our experience, it is a lot easier to cut and send 200 checks than it is to manually log in to 100 different payment portals, transmit funds, and logout.

7-205(E)(1)(h); Page 12 of the PDF

Purchase and maintain general liability insurance, naming the certified school as the insured, that meets the following conditions:

We support this change and would suggest that each company be required to acquire a bond of no less than \$1,000,000. As schools are collecting substantially more money in trust for the

State and the Courts, such a bond would ensure, in the event of a school absconding with the funds entrusted to them, the State, Courts, and Public would be made whole.

7-205(E)(1)(k); Page 13 of the PDF

File a defensive driving course curriculum only by electronic means. Pursuant to A.R.S. § 28-3395, the time allowed for the course, including a reasonable period of time to allow for an interactive format, 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 a manner to encourage behavior modification with the purpose of reducing driving violations and accidents. 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 questions. 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:

While we encourage requirements to improve curriculum by including behavior modification strategies, we do not feel this language is strong enough. How will the Division determine a behavior modification strategy? How can the Division know if a behavior modification strategy, though included, is being used properly?

Without continued measurement of the effect our programs have on the public, a school could claim behavior modification without actually modifying participants' behavior.

7-205(E)(1)(k)(1)(c); Page 13 of the PDF

Inattention and distractions, including:  
(i) Texting, and  
(ii) Mobile devices.

We support the addition of inattention and distractions as part of the course criteria; however, we believe the listing of Texting and Mobile devices is incorrect. We should list these specific items as the required topics; rather, we suggest listing the following:

- Inattention and distractions, including;

- Assessing distractions
  - Physical Distraction
  - Cognitive Distraction
  - Combination of the above two
  - Sensory Overload
  - Inattentive Blindness
- Psychological Factors
- Common Distracted Driving Behaviors
- Self-Assessment of actions/risky behavior
- Statistics and impact of Distracted Driving

7-205(E)(1)(k)(6); Page 14 of the PDF

The division director may require such other educational or behavior modification topics as the division director determines is appropriate.

We support the inclusion of behavior modification *strategies* that may impact student behavior; however, simply requiring discussion of behavior modification *topics* does not inherently translate to modifying student behavior. A school could write curriculum that discusses any required topic the Director sets forth, but without verification of course success this requirement shall most likely fail to improve proper behavior modification strategies as implemented by the schools.

7-205(E)(1)(l)(2); Page 14 of the PDF

include specific detail on the school's hours of operation which shall not be less than Monday through Friday 9:00 a.m. to 5:00 p. m. and Saturday 9:00 a.m. to noon.

We do not oppose requiring operations Monday through Friday 9am to 5pm (the same hours of operation offered by Courts); however, we are against requiring schools to work longer hours than the courts are themselves willing to offer defendants. Requiring weekend or after business hour support is incredibly overbearing of the court; especially as Courts have been known to take furlough days during the week throughout the state.

Schools should be operating during the same hours the Courts are operating; no more, no less.

7-205(E)(1)(l)(3); Page 15 of the PDF

include specific detail on the school's staffing to answer student and court telephone or email inquiries. The school's staffing must allow for prompt response to inquiries.

Once approved, a school must comply with and may not change the procedures until the school obtains approval from the board.

We do not oppose requiring schools to provide clarifying information to the AOC as to staffing; however, since schools are not allowed to change any facet of their operations without prior Board Approval, this language, included here, is too burdensome. Onboarding staff, extending or decreasing hours ebbs and flows with the market and cannot wait for the bureaucratic processes that would require board approval.

We do support schools committing to responding to student or court inquiries within 1 business day, but this information is already included in the rule and would be redundant (redacted code requirement 7-205(E)(5)(j)).

Shall this specific detail be used as a "Currently Available" filter for the website outlined in 7-205(D)(4)(i) (Page 6 of the PDF)?

Shall this specific detail be required to be posted on the School's Landing Page?

We recommend striking this language or removing the requirement of receiving Board Approval to adjust or change hours of operation.

We recommend defining a "prompt response" to one business day.

7-205(E)(4)(b); Page 18 of the PDF

The board shall refuse to certify an ADM applicant or course for certification:

1. If applicant fails to demonstrate that the applicant's curriculum is substantially different from the curriculum of other programs in which the applicant has common ownership or a financial interest.
2. Substantially different curriculum means:
  - i. The curriculum and the manner of presenting the curriculum use different organization, videos, and demonstrative props than other programs; and

- ii. A person participating in both classes would not understand from the presentation that there was common ownership.
3. Common ownership means:
  - i. Ownership of or an interest in two or more schools by an individual or entity;
  - ii. Ownership of or an interest in two or more entities that have an interest in a school; or
  - iii. Financial or other benefit, direct or indirect, in or from two or more schools by an individual or entity.
4. Decisions of the board concerning substantially different curriculum are final as to third parties. The Board is not authorized to enforce a third party's copyright.

We are opposed to this language and suggest it be struck.

“Substantially different” is subjective and shall be subject to personal biases. Furthermore, if a school is deploying certain behavior modification strategies, they may be forced to present content in similar ways; otherwise, changing the order or deviating from established, effective practices may result in reduced efficacy of the program as a whole.

This language goes to great length to try and *prevent* schools from utilizing existing curriculum; curriculum that may be some of the only proven effective content on the market that is known to reduce collisions and/or violations.

It should not be within the Division's nor the Board's authority to prevent schools from doing anything other than offering the best, most effective educational course content possible. The inclusion of this language seems more anticompetitive than practical and this saddens me to have to say:

Substantially different does not mean better quality.

7-205(E)(5); Page 19 of the PDF

Decision Regarding School Name. The Board may refuse to approve a school name or name change if:

- a. The name of the school is vulgar, obscene, misleading or expresses disrespect, contempt or ridicule to the supreme court, court system, law enforcement, or the defensive driving program.
- b. The name contains:
  1. more than 50 characters including spaces and special characters;

2. more than two special characters or punctuation marks and three numerical digits, except in the case of an abbreviation or acronym;
3. emoticons; or
4. is entirely upper or lower case, except in the case of an abbreviation or acronym.

In the past few meetings it has been said these rules will be in effect upon renewal and no schools will be grandfathered. Also at several Board Meetings, there have been repetitive discussion on the misleading language of "Faster," "Cheaper," or "Easier" and other variances of the same in several school names.

Will schools with names that were approved by the board who would have otherwise been considered misleading have to change their school names? If no, under what criteria will these schools be grandfathered as the board previously expressed concern about approving a school simply based on the school name? If yes, when shall the Division notify a school and how much time will they have to conform with this new rule?

We do not oppose the idea that the Division can limit the appearance of a school name on their website, but we take great issue with the Division dictating to any private citizen how many characters they can have in their business name. If the Division wants to only display 50 characters on their site, so be it. However, if I want to have a lengthy title that is approved under the criteria of the Corporations Commission or Secretary of State, the Division should not impede on my right to do so. We suggest moving the information on length, format to be displayed, etc to 7-205(D)(4)(i) (Page 6 of the PDF) as the Court has autonomy on their own website.

The division previously stated in proposed changes 7-205(E)(4)(b) (Page 18 of the PDF) that the Board is not authorized to enforce a third party's copyright, but with language in this section the Board is positioning itself to enforce a third party's trade name. The name of a school is not the Board's responsibility. Let the governing bodies (Corporation Commission and Secretary of State) and the market decide if a name is good or not.

7-205(F)(5)(h); Page 21 of the PDF

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.~~

This particular rule has been vague from the outset. We would like to see clarification and definition of "Third-party Contracts" that need approval. If we contract with one leasing agency for office space and switch to another, must we first wait for approval from the Board before executing the contract? If we choose Comcast over Cox for internet services, if we change from one package tier to another, or if we hire a contract, already approved instructor must we first wait for the Board to give their blessing?

Furthermore, there does not appear to be a limitation as to scope and reach here. If I contract with a third party for services in Guam or enter into a contract to provide services for the City of New York, must I first get approval from Board before being allowed to execute that agreement for fear of losing my certification? This rule is far too cumbersome and has been loosely used over the years. We suggest removal of this language.

7-205(F)(5)(j); Page 21 of the PDF

Provide the total school fee to attend the school's course in all information or materials provided to students, including the school's website. This total fee must include 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 before the student begins the registration process. The school shall provide the total school fee information in a conspicuous place on the first page of the school's Arizona web site and on published materials in a manner that is readily noticeable to the public and that is in accordance with the format specified by the AOC for all schools. The school when providing the total school fee may not refer the potential student to other portions of the webpage. A school shall inform the student that it will report the student's completion to the court having jurisdiction for no additional charge. In those situations, in which a school offers the student an alternative (i.e., expedited) method of reporting the completion, the school shall notify the student that the alternative method is not necessary for timely notification to the court.

This language has never fully been implemented as written because it is impossible.

I am unable to provide the total school fee in all information or materials provided to students until I am able to learn what court issued the student's citation. Before I am able to collect the student's court information, I must first provide information to the student requesting specific, accurate detail in order to provide the total school fee. Historically, the Division has ignored the "all information or materials provided to students" part of this rule until a school receives the court information from the student. This language should be struck or made clear that once we

have all the detail necessary to provide the total school fee, a school is obligated to display the total school fee.

The inclusion of the language "The school when providing the total school fee may not refer the potential student to other portions of the webpage." is confusing and unclear. I am unable to say, on the landing page, "Click here for total cost to attend" which would direct the student to a section further down on the page?

The way this rule is currently written, I must intuitively know which court a student's violation was issued through to display the total school fee and I cannot direct a student to scroll down a webpage or provide a link to find the total cost calculator. The total cost to attend should be conspicuously displayed, but information required to display that total cost requires student input and thus cannot be displayed at all times in all information provided to students. Moreover, if we are unable to refer a student to another portion of our webpage (the same page, not the same website), the Division is preventing us from providing additional, useful information that may better inform the consumer; effectively, we are prohibited from providing customer service to our potential clients.

7-205(F)(23); Page 25 of the PDF

Submit the school's schedule of future classroom defensive driving courses within at least fourteen days of prior to the date of the scheduled defensive driving course. Once scheduled, except for extraordinary circumstances, the date, time and location of the class cannot be changed or cancelled. 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. If a school fails to notify the division staff of a class cancellation or change of instructor, in addition to any other sanction, a \$50.00 fee shall be imposed by division staff on the school.

It is absolutely impractical and burdensome for a school to be forced to abide by the language "Once scheduled, except for extraordinary circumstances, the date, time and location of the class cannot be changed or cancelled." I completely understand the intent behind preventing nefarious scheduling of class dates and locations and the class shuffling that is guaranteed to



occur once a filter for Location and Time is implemented, but this change prevents practical, everyday business decisions.

First and foremost, if a class is not going to be profitable (i.e. the amount earned in school fees is not greater than the cost of renting a facility, paying an instructor, travel reimbursement [if applicable], and any other fees that may apply), a school must not be forced to hold the class at a loss. Even the American Disabilities Act has a provision for burdensome accommodations; yet, here the Division is indicating that the burden to schools is of no consequence. There is no way to know ahead of scheduling a class whether that class is going to attract enough students to cover operating costs. If I could predict which classes were going to be profitable before I scheduled them, I would be a millionaire.

Secondly, there are tons of practical reasons for adjusting location, date, and time of a scheduled class. We schedule classes 90 days in advance and often rent varying sizes of conference space. If a class grows to a certain size and we have an opportunity to shift the class location to the hotel next door or across the street which has bigger space to accommodate more students, we should be able to make the effort of contacting all our students to inform them of the change. This action is currently allowed, but is not incentivized as it would be if the Division adds a filter for Location and Time. Currently, this change would be customer and business oriented: ensure students are more comfortable and capture more students in a class.

The inverse of the above situation is also possible. If I schedule a class well in advance at one space and find that the space chosen is too large and too expensive for the amount of scheduled students, I could seek a smaller, cheaper space to conduct the class instead of cancelling it. Again, this issue is not incentivized in Defensive Driving since students are picking schools based on a specific date or location from the Division's website.

Additionally, we schedule multiple classes pulling from a pool of instructors. If we need to accommodate an instructor change-- which may include shifting instructors between classes without cancelling classes--, we would be limited in time frame of being able to do so and quite possibly fined for doing so. 14 calendar days before a class is way too long a timeframe to know if a change is going to be required. 72 hours ahead of the scheduled class is reasonable, but not 336 hours.

This language is ludicrous. Implementing a filter for Location, Date, and Time will spark a foreseeable problem (bogus scheduled classes and class cancellations) and thus this proposed language seeks to preempt that issue via a scorched earth approach; everyone will be punished to prevent a problem created via a filter implementation by the Division.

We suggest limiting class cancellations, location changes, instructor changes, date changes, and time changes to 72 hours ahead of the class. We *strongly* suggest not implementing a filter for location, date, and time on the Division's site which will incentivize the problems this proposed language seeks to prevent.

7-205(F)(24)(c)(2); Page 27 of the PDF

~~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; If a classroom school ensure:~~

- (a) each scheduled class only admits students from that certified school;
- (b) the school's certified instructor is not teaching or facilitating a class for any other certified school at the same time the instructor is teaching a class for the school, and
- (c) once scheduled, a class is not cancelled except for extraordinary circumstances which do not include failing to have a minimum number of students register for the class.

We are deeply concerned about the language disregarding any financial burden to schools that may go into determining whether a class shall be held or cancelled. Even Colleges and Universities close classes that do not have enough people registered *after* posting them for enrollment. It is not right to have a state agency force this burden on schools.

If the Division wishes to have schools identify in their administrative procedure manuals how determination for class cancellations are made and under what criteria, then please require that information to be submitted as part of 7-205(E)(1)(I) (Page 14 of the PDF) and hold us to those standards.

We shall vehemently oppose any language that seeks to infringe on our rights to make operational decisions that will impact the viability of our businesses. We operate within the rules. Rules aren't meant to operate our businesses.

7-205(F)(24)(d)(b); Page 29 of the PDF

Verify, by reviewing the person's driver's license and citation that the violation is:

7-205(F)(17)(d) indicates a court order may be used in place of a citation for a class. Additionally, we have received verification from several courts and the AOC that extension paperwork may be used in place of the citation if it contains all the relevant information.

Can we still accept extension documents in lieu of citations?

For continuity, we suggest adding "or court order" here or refer back to 7-205(F)(17)(d) for acceptable criteria used for verifying eligibility. If extension documents can be accepted, please include that language here, too.

7-205(F)(24)(d)(5)(n); Page 31 of the PDF

Provide a student who fails the examination the course participation questions 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 course participation questions; and

How many times can a student complete the final exam for ADM?

Why should a student be referred to a classroom course if they fail an online course? The reasoning we can think of is if there is some belief that classroom is better than online; which would be a believe, if implemented by the court, in direct violation of ARS 28-3393(2)(C). Naturally, if I am a provider of ADM and traditional classroom, I would offer a classroom program.

Requiring referral to only another provider's classroom course seems biased in favor of classroom format schools. This language should be struck.

7-205(F)(24)(d)(5)(p); Page 31 of the PDF

Divide the ADM course into segments of various lengths not to exceed 15 minutes and require the student to answer three substantive questions concerning the segment just completed correctly before the student can proceed to the next segment.

This is referred to as "Chunking." We are in support of language that improves course structure, but, again, without after-the-fact verification, these changes are just for show.

While we are in favor of improved standards of online delivery, we take issue with the inclusion of the language "require the student to answer three substantive questions concerning the segment just completed correctly before the student can proceed to the next segment." Our course is comprised of 85 different topics which may be interpreted as 85 individual segments. Requiring 3 questions after each segment would be less educational and more burdensome.

We suggest removing the number of required questions and suggest the questions appeared at the end of all relevant topics instead of each segment completed.

7-205(F)(32); Page 39 of the PDF

Sale or Transfer of Schools.

- a. Prior to the operation of a school, after the sale or transfer of that school, the new owner must complete an application for certification and the application must be approved by the board.
- b. The application must disclose any existing familial or business relationships with other owners, principals, entities, or officers.
- c. Any changes to the curriculum must be submitted with application with the voluntary curriculum change fee.

This language, coupled with previously proposed language (7-205(E)(4)(b); Page 18 of the PDF) leads to some very difficult questions. What happens if a school (Company A) purchases another school (Company B)--consolidation of businesses/buyouts being a common market force--wherein that Company B is an approved school with an approved curriculum that, had the curriculum been submitted by Company A would have been found substantially similar?

Is this curriculum once more reviewed during purchase proceedings or once more at renewal?  
Is the Board now acting as a regulatory agency approving and disapproving the sale of schools to one another?

All this language to ensure different curriculum, specifically worded to ensure that copyrights are the responsibility of the copyright holders and not a matter under the authority of the Division, creates additional loopholes that would be closed if the Division simply required submitted curricula to be proven effective via verifiable research from a federal, state, or local government agency.

7-205(H)(2); Page 40 of the PDF

In addition to the requirements in § 7-201(H), if the board determines that a school has committed an act of misconduct, resulting in either formal or informal discipline, the act of misconduct may be considered as an aggravating factor in any future complaint against another school owned in whole or part by the same owner or operated by the same principal.

We oppose the concatenation of violations between individual businesses and topics. This language is far too broad as everything under the sun shall be strung together to become an “aggravating factor” for future censorship of employees or businesses the Board or Division finds bothersome. Topics of varying severity (not responding to an email in a timely matter versus not reconciling the trust account properly as an example) should not be lumped together to attack the certification of a school.

This language should be struck.

Notes and Comments for AOC Document 7-205  
RIGHT TURN Traffic Schools

1. **Clarification of “Course Participation” and “Interactive Format” and the combination of each.**

There is reference in the Defined Terms section to “Course Participation Questions” (“...the set of queries asked of a student throughout the ADM course to determine if the student is actively viewing and participating in the ADM course.”)

There is also reference in the Defined Terms section to “Interactive Format” (“...a format in which the student is required to interact and engage materially with the content, using methods such as requested keystroke, “drag and drop” of an item, or a mouse click on a designated portion of the content, which shall occur randomly, in no more than fifteen-minute increments.”)

It appears that elsewhere in the specification, the requirement is for the ADM course to utilize Course Participation Questions. It is important to note that Course Participation Questions are an online tool to drive engagement of the student with respect to the content. The student must read the content in order to answer the Course Participation Questions. Based on having more content than one page per lesson, the student must also click a “Page Down” or utilize a scroll bar to view all lesson content being presented. Combined with a required 80% correct score to pass, this achieves the desired result of ensuring that the student is just not clicking the lesson and walking away until “the timer runs out” and then clicking the next lesson and doing the same thing.

In essence, Course Participation Questions provide an “Interactive Format”.

Consideration should be given to either defining Course Participation Questions as an “Interactive Format” or removing “Interactive Format” as a defined term so it won’t be confusing. Course Participation Questions themselves (with an 80% correct score requirement) achieve the desired result of requiring student involvement in the course material. If it is acceptable to utilize the processes defined as “Interactive Format” or “Course Participation Questions” then a recommendation would be to identify all the options and state that a school may select one of the interactive processes to utilize.

If so desired, the AOC could specify the Course Participation Questions each school must use to ensure continuity across all schools. In this scenario, the AOC could change Course Participation Questions periodically to focus on driving issues identified as most problematic in Arizona (allowing for schools to incorporate the new Course Participation Questions in a manner that fits their course and system design).

2. **Clarification of Terms Used – “Substantive”**

Page 5 – Section D.4.a.(14). This section reads “Substantive questions embedded in the exam.” Should this read “Substantive Course Participation Questions embedded in the exam,” or is the section referring to some other type of question?

3. **Displaying “Classroom” vs “Online” on AOC Site**

Page 6 – Section D.4.i. A suggestion would be to separate and clarify online courses versus classroom classes.

- a. The filtering by location and time are strictly classroom related. Results displayed to the student should be reported by distance from the location the student inputs with the closest class (by mileage) first and the farthest class presented last in the list. Because timing to take the class may be an issue, the student should be given the opportunity to resort the classroom results by date of the class also.
- b. The reference to “results shall be randomized” are specific to the **online course selection** where the school names are randomly rotated and provide each school the equal opportunity to appear at the top of the list over time. This is basically the same process/system that is currently being used by the DDS program.

4. **Online Course Segment (Lesson) and Overall Course Timing**

Page 13 – Section E.k. The following items are observed in this section of the document:

- a. “...including a reasonable period of time to allow for an interactive format...”. Referencing the discussion of item 1 of this review, the requirement for Course Participation Questions now included in 7-205 fulfills the interactive aspect for the ADM course. The requirement is that students must be given a maximum of 30 seconds to answer both participation questions and identity questions, so it would be reasonable that the number of participation questions and identity questions asked in an ADM course be multiplied by 30 seconds (to some specified maximum number of questions) to arrive at the amount of time allowed to be credited against the 240 minutes.
- b. “ADM courses shall indicate to the student the timeframe for completion begins when the student logs into the course.” Given the new requirement specified in section F.D.5 (p) (Page 31) that reads “Divide ADM course into segments of various lengths not to exceed 15 minutes...”, consideration should be given to timing the segments and not timing the time a student spends in the entire course. The sum time of the segments, less any time allocated to participation or identity questions, should add up to the minimum 240 minutes (and not exceed 270 minutes).

5. **Conflicting verbiage regarding required number of Segment (Lesson) Questions**

Page 14 – Section E. k. (7). This section calls out 25 course participation questions. In section F.24.d.(5) the new added text reads, “Divide the ADM course into segments of various lengths not to exceed 15 minutes and require the student to answer three substantive questions concerning the segment just completed...” . Assuming that the “substantive questions” and “substantive course participation questions” are the same thing, there is a conflict between the 25 and the 48 questions called for in the newly added text (15 Minute Segments / 240 Minutes x 3 Questions Per Segments = 48).

6. **Managing Identity Question Failures**

Page 14 – Section E.k. (9). This section reads, “ If an ADM course, the identity verification questions must all be answered correctly”. Consideration should be given to technical issues that arise and could be the cause of an identity question failure. A student’s Internet connectivity (so a provider issue) or depending on the quality of the schools systems, the school could be the cause of the problem. Consideration should be given to a process used by all schools for the same issue. A possible solution would be to require the school to automatically shut off the student’s access to the online course to force the student to call in to the school. At this point, schools must ask 3 identifying questions and if all are answered correctly, then the student would be allowed to restart the course at the identity question he/she missed. The student could also be told that there are no more “technical” issues allowed and one more incorrect identity question would result in a failed online course.

7. **Clarification on segment (Lesson) Question/Answer process and conflict regarding required final score for passing course**

Page 14 – E.k.(10). This section reads “If an ADM course the substantive questions.....must be answered correctly prior to proceeding.” Again, assuming “substantive questions” refers to “substantive participation questions”, consideration should be given to the following: (1) To implement this, the course would have to allow a student to select each of the answers until they got the correct answer. Depending on the coding, the student would always get the correct answer and 100% score (with no need to focus on the material). Additionally, the 30-second timer becomes problematic to allow students to continue to select additional answers once the 30 seconds has expired. (2) Another design solution would be that once a student selects an answer that the system identifies (in some manner) whether or not he/she got the answer right or wrong. If wrong then the system should identify the correct answer for the student at the same time it identifies the incorrect answer.

There is also conflicting requirements regarding a minimum of 80% score to pass the course and the requirement of all questions must be answered correctly to proceed to the next segment (lesson).

8. **Tracking segment/lesson activity**  
Page 14 – E.k.(11)(b). This section reads, “the login and logout times from the course: and”. Based on changes being made to 7-205, consideration should be given to changing the word “course” to “lessons” so that the lesson time(s) can be verified.
9. **Clarification between Participation and Substantive Questions**  
Page 15 – E.q.(1). There is reference to “...ADM participation and substantive questions”. Again, not quite sure what “substantive questions” are. Here they seem different from “Course Participation Questions” versus a qualifying phrase as to the type of questions a “Course Participation Question” should be.
10. **Ongoing clarification regarding Interactive Format**  
Page 31- F.k.24.d.(5)(i). This section reads, “Shall provide its course in an interactive format and ...”. See item 1 of this document for discussion on “interactive format”.
11. **Ongoing clarification regarding student login and logout times**  
Page 31 – F.k.24.d(5)(i)(i). This section reads, “student login and logout times.” See item 8 of this document for discussion on login and logout times.
12. **Suggestion on handling students who fail online course**  
Page 31 - F.k.24.d(5)(j). This section reads, “Not allow a retest when a student fails the course participation questions or the identity verification questions.” See item 6 of this document for discussion on no retest for identity questions. With respect to failing course participation questions, the following is provided for consideration and benefit of the student: (1) Require that the online course track the students score so the student is always aware of their score and whether they are in any danger of failing; (2) If a student fails an online course, provide the option to take a classroom class or retake the online course from the beginning. Retaking from the beginning is most likely a 2-4 hour penalty being imposed on the student, but if they live in an outlying area, a classroom class offered by any school may simply not be an option. The student would be told that if they failed the online class again, they would not get their violation removed from their driving record.
13. **Clarification of segment timing and segment (substantive) questions**  
Page 31 – F.k.24.d(5)(p). This section reads, “Divide the ADM course into segments of various lengths not to exceed 15 minutes and require the student to answer three substantive questions concerning the segment just completed correctly before the student can proceed to the next segment.” Consideration should be given to the following:
  - a. Moving to a minimum of 16 lessons with 3 “substantive questions” (again assuming these are “substantive course participation questions”), equals 48 questions. Schools may find it better to utilize many more lessons in order to better present the material to students in a way that flows in a

more organized (grouped) manner in order to maximize the learning opportunity. If a school breaks the content into, say, 25 lessons, then the current language implies that they need to ask 75 questions. Consideration should be given to specifying that a school must ask a minimum of 48 questions throughout its course, with the number of questions, to the extent possible, equally split up over the number of lessons in the course.