

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
ARIZONA CODE OF JUDICIAL	)	Administrative Order
ADMINISTRATION § 5-303:	)	No. 2020 - <u>03</u>
PERSONNEL PRACTICES	)	(Affecting Administrative
	)	Order No. 2017-15)
_____	)	

The above-captioned provision having come before the Arizona Judicial Council on December 12, 2019 and having been approved and recommended for adoption.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above-captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration, effective July 1, 2020.

Dated this 8th day of January, 2020.

ROBERT BRUTINEL
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 3: Court Security

Section: 5-303: Personnel Practices

A. Definitions. The following definitions apply to this section:

“Administrator” means superior court administrator, justice court administrator, or municipal court administrator.

“Certified court security officer” means any court employee who provides court security, whether part- or full-time, and who has been granted certification by the director pursuant to ACJA 5-304.

“Presiding judge” means, for superior court, justice courts, and consolidated justice/municipal courts, the superior court presiding judge or a designee who may be an administrator; for municipal courts, the municipal court presiding judge or a designee who may be an administrator; for appellate courts, the chief justice or chief judge or a designee.

“Director” means the Administrative Director of the Administrative Office of Courts or designee.

“Officer” means any person providing court security, whether part- or full-time or persons who have court security duties whether by job title, or job description.

B. Applicability. This section applies to court security officers who are court employees.

C. Purpose. This section prescribes and establishes minimum personnel requirements for armed and unarmed court security officers. This code section does not limit the discretion of the presiding judge to adopt local personnel practices not in conflict with this section.

D. Qualifications of Applicants.

1. All court security officers must complete the training and perform the duties required by ACJA §§ 5-302, -304, and -305, including use of force and defensive tactics as specified by administrative directive, and, as applicable, ACJA §§ 5-306, and -307. The presiding judge shall include in the position descriptions for court security officers the particular requirements that apply to each position. The presiding judge shall have each officer applicant certify, on a form approved by the director, that they are able to perform the required training and job duties with or without reasonable accommodations.
2. The presiding judge may institute a uniform requirement for all court security officer applicants to provide additional medical information and submit to a physical examination, to take place after a prospective court security officer has received a conditional offer of employment but before the prospective court security officer begins service.

E. Application and Background Investigation Requirements.

1. The presiding judge shall complete an employment qualification review and a character and fitness investigation after a prospective court security officer has received a conditional offer of employment but before each prospective court security officer begins service. All pre-employment screening results shall be kept confidential. All medical records (including psychological evaluation records) and information shall be kept confidential and separate from personnel records.
2. The character and fitness investigation for all applicants shall include but is not limited to fingerprinting and a criminal history records check through the Arizona Criminal Justice Information System (ACJIS) and the national criminal information database.
3. In addition to (E)(2), the character and fitness investigation for armed officers shall include a psychological evaluation that meets standards provided in subsection (H) of this code. The character and fitness investigation for all officers shall include drug testing for illegal substances pursuant to the model policy contained in Appendix A of ACJA § 6-106, or a local policy into which the provisions have been incorporated.

F. Applicant History.

1. In addition to other information, the presiding judge or administrator shall inquire on the application form whether:
 - a. The applicant is awaiting trial for or has been convicted of a felony offense in this state or a similar offense in another state or jurisdiction whether or not the conviction was sealed or expunged.
 - b. The applicant was previously AZPost certified or had a DPS-issued security guard card that was revoked.
2. The presiding judge shall determine whether an applicant who reports an offense under subsections (F)(1)(a) or (b) should be disqualified from further consideration, based upon the circumstances of the offense, including, but not limited to:
 - a. Age of the applicant at the time of conviction or adjudication;
 - b. The degree of violence and injury or property damage;
 - c. The applicant's record since the conviction or adjudication;
 - d. The recency of the conviction or adjudication;
 - e. The applicant's qualifications for the position sought; and
 - f. Whether the offense bears a reasonable relationship to the functions of the security

officer position.

G. Continuing Employment Requirements.

1. The presiding judge shall, at a minimum:
 - a. Provide all officers with access to and training regarding the Code of Conduct for Judicial Employees and the Arizona Code of Judicial Administration.
 - b. Have all officers certify that they have received training and shall adhere to the Code of Conduct for Judicial Employees and Arizona Code of Judicial Administration provisions concerning court security.
 - c. Adopt and integrate policies and procedures for reasonable suspicion drug screening in accordance with section (I) of this code section.
 - d. Have a written policy and procedure requiring all security officers to immediately disclose to the officer's supervisor if the officer is the subject of any of the following:
 - (1) Citation for a misdemeanor or felony offense;
 - (2) Arrest;
 - (3) Conviction;
 - (4) Order of protection;
 - (5) Warrant; or
 - (6) Other litigation in the court where the officer is employed.
 - e. Have a written policy and procedure addressing department action in response to a disclosure or discovery that the officer is the subject of any action identified in (G)(1)(d).
2. Upon receipt of objective evidence that a court security officer's health condition renders the officer unable to perform the essential functions of the job, including defensive tactics and use of force, in a safe manner, or that a court security officer's health condition poses a direct threat to the court security officer, court employees, or the public, the presiding judge may require a security officer to undergo an evaluation to determine the officer's ability to safely perform the officer's assigned duties.
 - a. The presiding judge shall choose a licensed or certified professional to complete the evaluation.
 - b. The court shall pay for the cost of the evaluation.
 - c. Based on the evaluation, the presiding judge shall review the assignment of a security officer to determine whether the officer can perform the assigned job duties consistent with the safety of the officer, other employees and the public.

- d. The presiding judge may take away the firearm of a security officer, reassign, or take other appropriate action when it is determined that the officer can no longer perform the assigned job duties consistent with the safety of the officer, other employees or the public.
 - e. All medical records (including psychological evaluation records) and information shall be kept confidential and separate from personnel records.
1. All court security officers shall comply with:
 - a. The Code of Conduct for Judicial Employees;
 - b. The Arizona Code of Judicial Administration (ACJA); and
 - c. All training requirements specified by the administrative director and the presiding judge.

H. Psychological evaluation standards.

1. The presiding judge may require a psychological evaluation to determine the psychological fitness of any court security officer, under the following circumstances:
 - a. A pre-employment evaluation conducted pursuant to subsection (E); or
 - b. After the officer has been hired, upon receipt of objective evidence that a court security officer's health condition renders the officer unable to perform the essential functions of the job in a safe manner, or that a court security officer's health condition poses a direct threat to the court security officer, court employees, or the public.
2. The presiding judge shall only use a qualified evaluator.
 - a. The presiding judge shall provide the evaluator with the following prior to the semi-structured clinical interview:
 - (1) Information for pre-employment evaluation.
 - (a) The employment application; and
 - (b) Any background information gathered through the employment application process that may be useful in the evaluation of the applicant.
 - (2) Post-employment information for firearm authorization or fitness for duty evaluation, including:
 - (a) Information regarding any disciplinary actions or behavior problems;
 - (b) Job performance evaluation; and
 - (c) Current issues that may affect job performance or safety.
3. The evaluator shall provide, in writing, the results of the evaluation directly to the presiding judge.

- a. The report shall evaluate the suitability of the officer's fitness to carry a firearm or to perform court security officer duties;
- b. The evaluator's report to the presiding judge shall contain:
 - (1) A recommendation for firearm authorization or fitness for duty;
 - (2) Justification for the recommendation; and
 - (3) Any clinical observations that the psychologist might have regarding the validity or reliability of the results.
- c. The presiding judge shall keep the results of the evaluation confidential and separate from the officer's personnel records.

I. Drug Testing. The administrative director shall determine methodologies for drug testing. The presiding judge shall adopt and integrate policies and procedures for conditional offer and reasonable suspicion drug screening for illegal substances which conforms to the model policy established by Appendix A of ACJA § 6-106.

- 1. The presiding judge shall conduct authorized drug tests under the following conditions:
 - a. After a prospective court security officer has received a conditional offer of employment but before the prospective court security officer begins service.
 - b. Reasonable suspicion testing.
 - (1) The presiding judge may have any officer submit to a drug or alcohol test based upon reasonable suspicion of prohibited or illegal use of drugs or alcohol.
 - (2) The presiding judge may determine that reasonable suspicion exists that an officer used alcohol or illegal drugs based upon, but not limited to, the following:
 - (a) Direct observation of drug or alcohol use or the physical symptoms of being under the influence of drugs or alcohol.
 - (b) pattern of abnormal conduct or erratic behavior.
 - (c) Arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation of illegal drug possession, use or trafficking.
 - (d) Information provided by reliable or credible sources or by admission of the officer.
 - (e) Evidence that the officer tampered with a previous drug test.
 - (3) The documenting supervisor shall:
 - (a) Provide, in writing, a description of the circumstances which form the basis of reasonable suspicion;
 - (b) Forward the written documentation to the presiding judge to authorize testing.
 - (4) The presiding judge shall retain the test results separate from the officer's personnel file and keep the results confidential.

- c. Officer Shooting or Discharging a Firearm While On Duty. Any officer who discharges a weapon in the line of duty shall submit to a drug and alcohol test as soon as practicable but not more than 24 hours after discharging a weapon.
- 2. A vendor approved by the presiding judge shall conduct employee drug tests for the illegal use of the following drugs, or classes of drugs:
 - a. Cannabis;
 - b. Cocaine;
 - c. Opiates;
 - d. Amphetamines/Methamphetamine;
 - e. Ecstasy (MDMA);
 - f. Alcohol;
 - g. Oxycodone;
 - h. Heroin.
- 3. The presiding judge shall develop and implement protocols that allow for medical review of positive drug test results when an officer requests a retest.

J. Conditional Employment Offers. The offer of employment shall be conditioned upon verification of criminal history results through fingerprint analysis and qualification after a character and fitness investigation under subsection (E)(1) – (3).

K. Employment Condition. The presiding judge shall provide that failure of a security officer to successfully complete all applicable certification and training requirements of ACJA §§ 5-304 is grounds for dismissal.