

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
 )  
AMENDING ARIZONA CODE OF ) Administrative Order  
JUDICIAL ADMINISTRATION § 7-203: ) No. 2022 - 79  
CONFIDENTIAL INTERMEDIARY )  
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 )  
\_\_\_\_\_ )

Proposed amendments to the above-captioned section of the Arizona Code of Judicial Administration (ACJA) came before the Arizona Judicial Council on June 21, 2022, at which time the Council approved the proposed amendments and recommended their adoption.

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

IT IS ORDERED that the amendments to ACJA § 7-203 as indicated on the attached document are adopted. All other provisions of § 7-203 remain unchanged and in effect.

Dated this 13th day of July, 2022.

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ROBERT BRUTINEL  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 7: Administrative Office of the Courts**

**Chapter 2: Certification and Licensing Programs**

**Section 7-203: Confidential Intermediary**

*[Added text is shown underlined, deleted text by strikethrough.]*

**A. Definitions.** In this section, unless otherwise specified, ~~addition to the definitions in ACJA § 7-201(A),~~ the following definitions apply:

“Adoptee” means an individual adopted pursuant to A.R.S. §§ 8-102 and 14-8101.

“Agency” means “a person ~~other than the division~~ licensed by the ~~division~~ department of child safety to place children for adoption, including an attorney or law firm<sup>2</sup>, as provided by A.R.S. § 8-101~~(2)~~.

“Child” means “any person under eighteen years of age” as provided by A.R.S. § 8-101(4).

“Confidential intermediary” means ~~a person~~ an individual who completes the requirements for certification ~~as established by ACJA § 7-201, this section,~~ and A.R.S. § 8-134, and who possesses a valid confidential intermediary certificate issued by the supreme court.

“Former dependent child” means “a person who was previously adjudicated a dependent child in a dependency proceeding that has been dismissed by order of the juvenile court” as provided by ARS § 8-501~~(3)~~(4).

“Mentor” means a certified confidential intermediary who assists ~~an inexperienced~~ a less experienced certified confidential intermediary throughout a case.

“Search” means the process where a confidential intermediary, upon the request of a qualified individual pursuant to A.R.S. § 8-134(A) or A.R.S. § 8-543(B), or upon a court order, reviews court, agency, and public or other authorized records to locate information regarding an adoptee, birth parent, adoptive parent, ~~or~~ birth sibling of an adoptee, or sibling of a former ~~dependant~~ dependent child.

“Sibling,” means “~~For for the purposes of this section,~~ “sibling” includes a person who shares a common biological parent, stepparent, or adoptive parent” as provided by A.R.S. § 8-543(F).

**B. Applicability.** This section governs the confidential intermediary and sibling information exchange programs and, applies to every confidential intermediary in the state, ~~and~~ This section is read in connection together with the general requirements and definitions in ACJA § 7-201: General Requirements, which section provides that ~~In in~~ the event of a conflict between ~~this section and ACJA § 7-201 and this section,~~ the provisions of this section ~~shall~~ will govern. This section is also read together with statutory provisions applicable to confidential intermediaries in A.R.S. §§ 8-134 and -543, including the following:

1. Pursuant to A.R.S. § 8-134(J) provides, an individual must not act as a confidential intermediary unless the individual possesses a confidential intermediary certificate issued

by the supreme court.

~~A person shall not act as a confidential intermediary unless the person possesses a confidential intermediary certificate issued by the supreme court. In order to be certified as a confidential intermediary a person shall meet and maintain the minimum standards prescribed by this section and the rules adopted by the supreme court.~~

2. ~~Regarding the sibling information exchange program, Pursuant to A.R.S. § 8-543(C), provides: “A person participating in the program shall use a confidential intermediary who is certified pursuant to section 8-134.”~~a person participating in the sibling information exchange program must use a confidential intermediary.

**C. [no change]**

**D. Administration.**

1. Role and Responsibilities of the Supreme Court.

- a. ~~In addition to the requirements of ACJA § 7-201(D), Pursuant to A.R.S. § 8-134(I), states: the supreme court administers the confidential intermediary program and is responsible for adopting rules and procedures for its implementation, including rules providing for the qualifications; required fees; minimum standards for certification, training, and standards of conduct of confidential intermediaries; and the fees that may be charged by a confidential intermediary.~~

~~The Arizona supreme court shall administer the confidential intermediary program. The court shall adopt rules and procedures necessary to implement the program, including qualifications, required fees, minimum standards for certification, training and standards of conduct of confidential intermediaries, and shall establish the fees that may be charged by a confidential intermediary.~~

- b. ~~In addition to the requirements of ACJA § 7-201(D), A.R.S. § 8-543(A) states: “The administrative office of the courts shall establish a sibling information exchange program to facilitate contact between a former dependent child and the child's sibling or siblings.”~~

2. ~~Role and Responsibilities of the Director Administrative Office of the Courts. These responsibilities are contained in ACJA § 7-201(D).~~

- a. Pursuant to A.R.S. § 8-543(A), the administrative office of the courts is responsible for establishing a sibling information exchange program to facilitate contact between a former dependent child and the child's sibling or siblings.

- b. The role and responsibilities of the director and deputy director of the administrative office of the courts are as stated in ACJA § 7-201(D).

c. The role and responsibilities of the division director and division staff of the certification and licensing division of the administrative office of the courts are as stated in ACJA § 7-201(D).

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

~~4. Role and Responsibilities of Division Staff. These responsibilities are contained in ACJA § 7-201(D).~~

~~53. Confidential Intermediary Board. In addition to the requirements of Pursuant to ACJA § 7-201(D)(5), the following requirements apply:~~

~~a. The the confidential intermediary board is established, comprised of the following eleven consisting of 7 members, as follows:~~

~~(1a) Four Three certified confidential intermediaries who have been confidential intermediaries for no less than five 5 years;~~

~~(b) One superior court judicial officer or trial court administrator;~~

~~(3)(c) One attorney with no less than 5 years of experience in adoption law or one adoption agency-related representative;~~

~~(4)(d) One Two public member; and~~

~~(5) One clerk of the superior court or designee;~~

~~(6) One adoption agency related representative; and~~

~~(7)(e) One additional member appointed by the chief justice of the supreme court.~~

~~b4. Meetings. The board shall meet no less than two times per year for regular meetings meets as needed to carry out its responsibilities.~~

~~65. Fund. The division staff shall must deposit all collected fees in the confidential intermediary and fiduciary fund, in accordance with established by A.R.S. § 8-135(A). This fund consists “of the monies received pursuant to § 12-284.03, subsection A, paragraph 8, § 36-341, subsection B, § 14-5651, subsection A, legislative appropriations, donations, fees, grants and contracts to implement the confidential intermediary program established by § 8-134 and the sibling information exchange program established pursuant to § 8-543... The supreme court shall administer the fund subject to legislative appropriation.”~~

## **E. Initial Certification.**

1. Application for Initial Certification. In addition to the requirements of ACJA § 7-201(E), the applicant shall must meet the following requirements:

a. Fingerprinting. Pursuant to A.R.S. § 8-134(K) provides: “In carrying out the provisions of this section the supreme court shall require applicants for a confidential intermediary certificate to furnish fingerprints and the supreme court shall obtain criminal history

record information pursuant to § 41-1750.”, the supreme court must require the applicant to furnish fingerprints and must obtain criminal history record information on each applicant for certification.

b. Initial Training. The division staff ~~shall~~must provide initial training for confidential intermediary applicants no less than one time per year. The training ~~shall~~must consist of a minimum of twelve hours of instruction. All applicants for initial certification ~~shall~~must attend the entire initial training session.

c. Fees. An applicant ~~shall~~must pay the fees for certification specified in subsection (K).

2. Qualifications for Initial Certification. In addition to the requirements of ACJA § 7-201, an applicant for certification as a confidential intermediary ~~shall~~must meet the following minimum qualifications and be:

a. At least 21 years of age ~~or more~~;

b. and c. [no change]

3. Examination. ~~In addition to the requirements of~~ The procedure for administering examinations is governed by ACJA § 7-201(E)(1)(f). ~~the division~~ Division staff ~~shall~~must administer the examination no less than ~~one time~~once per year in conjunction with the initial training.

4. Decision Regarding Certification. ~~These requirements are contained in~~ ACJA § 7-201(E)(2) governs the process for board’s decisions to grant or deny certification.

5. [no change]

**F. Role and Responsibility of Certificate Holders.** In addition to the requirements of ACJA § 7-201-(F), the following provisions apply to confidential intermediaries:

1. Standards of Conduct. -Each confidential intermediary ~~shall~~must adhere to the standards of conduct in subsection (J), ~~A.R.S. § 8-134(I) and A.R.S. § 8-543(C)~~of this section.

2. Identification. -When accessing files related to a search, a confidential intermediary ~~shall~~must provide the valid photo identification issued by the confidential intermediary program.

3. Parties. -A confidential intermediary ~~shall~~may provide services only to those parties who are eligible pursuant to A.R.S. § 8-134(A) or A.R.S. § 8-543(B).

~~a. Adoption Searches.~~

~~(1) A.R.S. § 8-134(A) provides:~~

~~A. Any of the following persons may use the services of a confidential intermediary who is listed with the court:~~

- ~~1. The adoptive parents of an adoptee who is at least eighteen years of age or, if the adoptive parents are deceased, the adoptee's guardian.~~
- ~~2. An adoptee if the adoptee is at least eighteen years of age.~~
- ~~3. If an adoptee is deceased, the adoptee's spouse if the spouse is the legal parent or guardian of any child of the adoptee.~~
- ~~4. If an adoptee is deceased, any progeny of the adoptee who is at least eighteen years of age.~~
- ~~5. Either of the birth parents of an adoptee.~~
- ~~6. The biological grandparent of the adoptee or other members of the adoptee's extended biological family.~~
- ~~7. A biological sibling of the adoptee if the sibling is at least eighteen years of age.~~

~~(2) A.R.S. § 8-134 further provides:~~

~~G. On receipt of a written statement from a physician or a registered nurse practitioner that explains in detail how a health condition may seriously affect the health of the adoptee or a direct descendant of the adoptee, the court shall order the confidential intermediary program to appoint a confidential intermediary. The confidential intermediary shall make a diligent effort to notify an adoptee who has attained eighteen years of age, an adoptive parent or guardian of an adoptee who has not attained eighteen years of age or a direct descendant of a deceased adoptee that the nonidentifying information is available and shall be provided on written request.~~

~~H. On receipt of a written statement from a physician or a registered nurse practitioner that explains in detail why a serious health condition of the adoptee or a direct descendant of the adoptee should be communicated to the birth parent or biological sibling to enable the birth parent or biological sibling to make an informed medical decision, the court shall order the confidential intermediary program to appoint a confidential intermediary. The confidential intermediary shall make a diligent effort to notify those individuals that the nonidentifying information is available and shall be provided on written request.~~

~~b. Sibling Information Searches~~

(1) A.R.S. § 8-543(B) provides:

~~B. The following persons may participate in the program:~~

~~1. An adult who is a former dependent child.~~

~~2. A juvenile who is a former dependent child, through any of the following:~~

~~(a) The juvenile's adoptive parent.~~

~~(b) The juvenile's guardian.~~

~~(c) The juvenile's biological parent if that person has legal custody of the child and is not a party to a pending dependency proceeding.~~

~~3. The adult sibling of a former dependent child.~~

4. Sharing of Information. A confidential intermediary may use confidential information only to arrange a contact or to share information between the person who initiates the search and the person who is the subject of the search as provided in A.R.S. § 8-134 and A.R.S. § 8-543.

~~a. Adoption Searches.~~

(1) A.R.S. § 8-134 provides:

~~C. [A] confidential intermediary may inspect documents compiled pursuant to this article. Documents include the court records, division records, agency records and maternity home records. The confidential intermediary shall keep confidential all information obtained during the course of the investigation. The intermediary shall use confidential information only to arrange a contact or share information between the person who initiates the search and the person who is the subject of the search. A confidential intermediary shall review the court record before making any contact with an adoptee to determine if an affidavit has been filed pursuant to subsection E of this section. Except as provided pursuant to subsection A, paragraphs 1, 2, 4 and 7 and subsection G of this section, a confidential intermediary shall not contact persons under twenty-one years of age.~~

~~D. The confidential intermediary shall obtain written consent from the person who initiated the search and the person who is the subject of the search before arranging for the sharing of identifying information or a contact between them. If the confidential intermediary discovers the subject of the search is deceased or that the identity of the birth father was unknown to or not revealed by the birth mother, the confidential~~

~~intermediary shall share this information with the person initiating the search. If the confidential intermediary, after a diligent effort, is unable to locate the subject of the search to obtain written consent to share information, the confidential intermediary shall share this information with the person initiating the search and prepare and place with the compiled documents a written report describing search efforts. If the person who initiated the search petitions the court to release identifying information, the court shall review the report prepared by the confidential intermediary and shall decide if the information may be released and in what manner the information may be released if the court determines there is good cause.~~

~~E.—An adoptive parent who has not informed an adoptee that the adoptee was adopted may file an affidavit so stating with the court where the adoption took place. The affidavit may be withdrawn at any time by the adoptive parent. If an affidavit is a part of the court record, the confidential intermediary shall not make contact with the adoptee unless the adoptive parent withdraws the affidavit and grants permission in writing or the adoptee has filed an affidavit stating that the adoptee knows about the adoption and wishes to make contact with the birth parent.~~

~~F.—A birth parent who has not informed the parent's biological offspring of the existence of the adoptee may file an affidavit so stating with the court where the adoption took place. The affidavit may be withdrawn at any time by the birth parent. If an affidavit is a part of the court record, the confidential intermediary shall not make contact with the biological sibling unless the birth parent withdraws the affidavit and grants permission in writing or the biological sibling has filed an affidavit stating that the biological sibling knows about the adoptee and wishes to make contact with the adoptee.~~

~~b.—Sibling Information Searches.~~

~~(1) A.R.S. § 8-543 provides:~~

~~C.—A person participating in the program shall use a confidential intermediary who is certified pursuant to section 8-134. The confidential intermediary may access court, division and agency records. The confidential intermediary must keep confidential all information the intermediary obtains during the course of the investigation and may use this information only to arrange a contact or to share information between the person who initiates the search and the person who is the subject of the search. The confidential intermediary shall not contact any person who is under eighteen years of age.~~

~~D. If a former dependent child does not wish to be contacted by the child's sibling or siblings the former dependent child may file an affidavit so stating with the court. If an affidavit is part of the court record, the confidential intermediary shall not make contact with the former dependent child unless the former dependent child withdraws the affidavit and grants permission in writing or the former dependent child has filed an affidavit stating that the former dependent child knows about the sibling or siblings and wishes to make contact with the sibling or siblings.~~

5. Notice of Withdrawal. A confidential intermediary may withdraw from a search for any reason.
  - a. If a confidential intermediary withdraws from a search, the confidential intermediary ~~shall~~ must submit a notice of withdrawal form to division staff for that search.
  - b. The confidential intermediary ~~shall~~ must submit to division staff a finalization report for each case in which the confidential intermediary withdraws ~~from, pursuant to~~ as required by subsection (F)(6) of this section.
6. Finalization Report. A confidential intermediary ~~shall~~ must file with division staff a finalization report on all completed searches ~~or~~ and within 45 days of withdrawal on searches where the confidential intermediary has withdrawn within 45 days of the withdrawal. These requirements also apply when a confidential intermediary voluntarily surrenders their certificate or their certificate is placed on inactive status.
  - a. The finalization report ~~shall~~ must include:
    - (1) A copy of the consent or refusal documents;
    - (2) Documentation of a consultation or mentoring agreement;
    - (3) A copy of the file review statement; and
    - (4) A summary report of the search process and outcome.
7. Retention of Records. -A confidential intermediary ~~shall~~ must maintain all search-related documentation, including receipts, for every search for no less than ~~five~~ 5 years.
8. Voluntary Surrender or Request for Inactive Status. ~~In addition to the requirements of ACJA § 7-201(E)(7) and (E)(8); govern the process when a confidential intermediary voluntarily surrenders their certificate or is placed on~~ transfers to inactive status;. In addition, the confidential intermediary who voluntarily surrenders their certificate or transfers to inactive status shall must:
  - a. Submit a the notice of withdrawal form ~~pursuant to~~ required by subsection (F)(5) of this section for each of the confidential intermediary's open searches approved for the confidential intermediary;

- b. Provide a copy of the notice of the withdrawal to each affected client; and
- c. Submit the finalization report ~~pursuant to~~ required by subsection (F)(6) of this section for each open search approved for the confidential intermediary.

**G. Renewal of Certification.** In addition to the requirements of ACJA § 7-201-(G) governing renewal of certification, the following provisions apply to confidential intermediaries:

1. Expiration Date. All certificates expire at midnight on October 31, ~~2006 and every of each even-numbered year thereafter.~~ All certifications are valid until the expiration, voluntary surrender, suspension, or revocation of the certification becomes effective.
2. Continuing Education. All confidential intermediaries ~~shall~~ must complete at least ~~twelve~~ 12 hours of continuing education pursuant to subsection (L) of this section.

**H. Complaints, Investigations, Disciplinary Proceedings and Certification and Disciplinary Hearings.** ~~These requirements are contained in ACJA § 7-201(H) Complaints, investigations, disciplinary proceedings, certification hearings, and disciplinary hearings involving confidential intermediaries are governed by ACJA § 7-201(H).~~

**I. Policies and Procedures for Board Members.** ~~These requirements are contained~~ The policies and procedures governing members of the confidential intermediary board are as set forth in ACJA § 7-201(I).

**J. Standards of Conduct.** The following standards of conduct apply to all confidential intermediaries ~~pursuant to A.R.S. § 8-134(I) and A.R.S. § 8-543~~ to establish minimum standards for performance by confidential intermediaries and to ensure the confidentiality of the search and consent process.

1. Confidentiality.
  - a. ~~In all actions, The~~ the confidential intermediary shall ~~must~~ keep paramount in all actions the importance and significance of confidentiality. -The confidential intermediary shall ~~must~~ exercise extreme care and diligence in respecting the privacy and confidentiality of all parties involved in the a search.
  - b. The confidential intermediary ~~shall~~ must keep confidential all information obtained during the course of ~~the a~~ search and ~~shall~~ may use said confidential information only to arrange a contact or to share ~~that information which is,~~ as permitted by A.R.S. § 8-134(D) and A.R.S. § 8-543(C), between the person who initiated the search and the person who is the subject of the search.
  - c. The confidential intermediary ~~shall~~ must review the court records to determine whether an affidavit has been filed by a party consenting to or blocking contact and must act according to the wishes expressed by such an affidavit.

- d. The confidential intermediary ~~shall~~must perform all duties and responsibilities pursuant to Arizona laws relating to adoption, including those limitations on limiting the release of information.
- e. The confidential intermediary ~~shall~~must maintain required records in a professional manner while protecting the confidentiality of information contained in the records.
- f. The confidential intermediary, having located the sought-after party, ~~shall~~may ~~divulge~~ disclose to the client and located party only that information relevant to the physical safety and protection of the parties and their families as necessary to allow the client and located party to make an informed decision about whether or not to consent to the release of identifying information. In order to meet the requirements of informed consent, the confidential intermediary shall share only the information necessary for the physical safety and protection of the parties and their families. The confidential intermediary ~~shall~~must present such information in a nonjudgmental manner.
- g. On a case-by-case basis, the confidential intermediary may consult with another confidential intermediary ~~sharing and disclose~~ only that case information on a case which is necessary for the specific purpose of soliciting ideas or information that would assist the confidential intermediary in carrying out the search or to arrange a contact. The case finalization report shall clearly designate the disclose the use of any consulting confidential intermediary. Except as provided in this paragraph, All all confidentiality restrictions apply to both confidential intermediaries.
- h. ~~The~~A confidential intermediary may act as a mentor to assist ~~a an inexperienced less~~ experienced confidential intermediary. The less experienced confidential intermediary and the mentoring confidential intermediary may share confidential information as necessary for the purpose of instruction for the result of an to increase the increased-skill level of the less experienced confidential intermediary and the likelihood of a successful search. The request for appointment form and the finalization report shall clearly designate the mentoring confidential intermediary. The case finalization report must clearly disclose the use of any mentoring confidential intermediary. Except as provided in this paragraph, All all confidentiality restrictions apply to both confidential intermediaries.

## 2. Skills and Knowledge.

- a. The confidential intermediary ~~shall~~must demonstrate possession of adequate skills and knowledge adequate to perform the work of a confidential intermediary and shall must satisfy the fulfill ongoing continuing education requirements ~~to maintain professional growth as specified by ACJA § 7-201 and of subsection (L) of this section.~~
- b. The confidential intermediary ~~has an obligation to have knowledge must~~ maintain competence in the field after obtaining certification and keep informed of all ensure that their knowledge of all current and applicable laws regarding applicable to adoption and sibling information exchange issues remains current.

- c. The confidential intermediary ~~shall~~must inform the parties of the availability of resources for support.
- d. The confidential intermediary ~~has a responsibility to~~must maintain a working knowledge of documents and information customarily contained in court and agency files.
- e. The confidential intermediary ~~shall~~must possess the ~~necessary~~ verbal and written communication skills ~~sufficient~~necessary to perform the confidential intermediary role, including an aptitude for communicating in person, by telephone, and by correspondence.
- f. The confidential intermediary ~~shall~~must manage each case proficiently. ~~Skills required and possess include, but are not limited to, the skills necessary to perform the search searches, make contact~~contacts, maintain records, and discharge ~~the case cases~~ in a timely fashion.
- g. The confidential intermediary ~~shall~~must keep the client reasonably informed about the status of the search and promptly comply with reasonable requests for information.
- h. The confidential intermediary ~~shall~~must prepare complete, accurate, and understandable reports and finalization reports~~discharge summaries~~.
- i. The confidential intermediary ~~shall~~must conduct each search ~~demonstrating~~using efforts appropriate to the case.
- j. The confidential intermediary ~~shall~~must perform a diligent and expedient search ~~if the search is a~~in any court-ordered medical search. The confidential intermediary must perform all other searches using the degree of diligence required by the agreement between the confidential intermediary and the client.
- ~~k. The confidential intermediary shall otherwise perform a search using proper diligence pursuant to the agreement between the confidential intermediary and client.~~

### 3. Fees and Expenses.

- a. The confidential intermediary ~~shall~~may only charge ~~only those~~ fees and expenses ~~that are reasonable in amounts~~reasonably and necessarily incurred in order to conduct in conducting the search and ~~provide~~providing services pursuant to Arizona law, ACJA § 7-201, this section, and administrative orders adopted by the supreme court.
- b. The confidential intermediary ~~shall~~must not charge more than the amounts permitted pursuant to subsection (M) of this section.
- c. The confidential intermediary ~~shall~~must return to the client all fees collected in advance but not earned.

#### 4. Sensitivity and Professionalism.

- a. The confidential intermediary ~~shall~~must exercise the highest degree of sensitivity and professionalism in all interactions with clients, the party located, and others with whom they come in contact during the search, ~~This~~which includes the ability to empathize with others, be discreet in dealing with confidential information, and recognize the emotions of all involved parties.
- b. The confidential intermediary ~~shall~~must strive to develop professional objectivity regarding biases, attitudes, and beliefs about adoption, reunion, and sibling information exchange issues.
- c. The confidential intermediary ~~shall~~must demonstrate the ability to work with individuals regardless of ~~differing~~ their culture, ethnicity, religion, sexual orientation, or lifestyle.
- d. The confidential intermediary ~~shall~~must not remove adoption case or sibling information records from agency or court files or falsify or alter records.
- e. The confidential intermediary ~~shall~~must not use materials or employ methods that are ~~not inconsistent or in conflict~~ with the goals and role of a confidential intermediary ~~and shall not use materials or employ methods or~~ for personal benefit or use materials or methods in ways that are inconsistent or in conflict with the goals and role of a confidential intermediary.
- f. The confidential intermediary ~~shall~~must not assume the role of a therapist or counselor when acting in the capacity of a confidential intermediary, even if otherwise qualified to do so, but may provide initial education and information. –A confidential intermediary ~~shall~~must demonstrate an understanding of how the confidential intermediary role differs from that of a counselor or an advocate.
- g. The confidential intermediary ~~shall~~must not provide or offer to provide legal advice in the role of a confidential intermediary.
- h. The confidential intermediary ~~shall~~must not violate any rules or policies established by the supreme court regarding the confidential intermediary or sibling information exchange programs ~~as established by the supreme court~~ or conduct themselves in a manner that would reflect adversely on the judiciary, the courts, or other agencies involved in the administration of justice.

#### 5. Ethics.

- a. The search for and reunion of adopted individuals, adoptive parents and birth parents and former ~~dependant~~dependent children are highly charged emotionally. Because the primary sources of information about the unknown parties are confidential, the confidential intermediary ~~is held to~~must conduct themselves according to the highest

standards of trust, impartiality, and respect in the performance of services.

- b. The confidential intermediary ~~shall~~must perform services in a manner consistent with legal and ethical standards.
  - c. The confidential intermediary ~~shall~~must not assume the role of an advocate or use coercion or undue influence to persuade any party to the search to take or not to take any action.
  - d. ~~The~~A confidential intermediary ~~shall~~must be cognizant of any personal limitations of on their knowledge and experience. If ACJA §§ 7-201, this section, administrative orders, Arizona statutes, standards of conduct, or training manuals do not provide guidance sufficient to address difficult issues, the confidential intermediary ~~and~~ may consult other experienced confidential intermediaries about a case ~~if ACJA §§ 7-201, -203, administrative orders, Arizona statutes, standards of conduct, or training manuals do not provide the guidance necessary to address difficult ethical issues pursuant to subsection (J)(1)(g) of this section.~~ Nonetheless, ~~the~~a confidential intermediary is ultimately responsible for decisions made in regard to the any case in which another confidential intermediary is consulted.
  - e. The confidential intermediary ~~shall~~must avoid any conflict of interest or the appearance of a conflict of interest.
    - (1) The confidential intermediary ~~shall~~must not accept a search request or continue on a case involving a relative, ~~or~~ business associate, ~~a~~ personal friend where the relationship is such that the relative, business associate, or personal friend may exert undue pressure on the confidential intermediary.
    - (2) The confidential intermediary ~~shall~~must not accept a search request on any case where the confidential intermediary cannot act in an objective manner or perform services as required.
    - (3) The confidential intermediary ~~shall~~must not accept a search request or serve as a confidential intermediary for the purpose of taking advantage of any party to the search for personal or professional gain.
  - f. The confidential intermediary ~~shall avoid misrepresenting~~must not misrepresent the purposes of the confidential intermediary or sibling information exchange programs, the confidential intermediary's qualifications, fees, or any other information relating to the role of the confidential intermediary. ~~The confidential intermediary shall avoid misrepresenting~~must not misrepresent any circumstances or information specific to a case to any client or any party located ~~any circumstances or information specific to a case.~~
  - g. The confidential intermediary ~~shall avoid utilizing~~must not utilize certification in any manner to gain access to information or services for purposes other than those of the confidential intermediary program.
6. Compliance. The confidential intermediary ~~shall~~must perform all services and discharge all

obligations in accordance with current Arizona and federal laws, ACJA §§ 7-201, ~~203~~ this section, and administrative orders adopted by the supreme court governing the certification of confidential intermediaries.

**K. Fee Schedule.** Pursuant to ~~A.R.S. § 8-134(I) and A.R.S. § 8-543, the supreme court shall administer its authority to administer~~ the confidential intermediary and sibling information exchange programs. ~~The the supreme court shall adopt~~ adopts rules and procedures necessary to implement the programs, including qualifications, required and permissible fees the following fee schedule:

1. through 4. [no change]

**L. Continuing Education Policy.**

1. Purpose.

a. [no change]

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

2. Applicability. Pursuant to subsection (G)(2) of this section:

a. ~~All all~~ confidential intermediaries ~~shall~~ must ~~attend complete six~~ 6 hours of approved continuing education each year for a total of 12 ~~twelve~~ hours of continuing education ~~during each certificate certification period, at least 1 hour of which each year must be in an ethics-based curriculum. A confidential intermediary shall complete a minimum of one hour each year of the continuing education requirement in an ethics based curriculum.~~ — The confidential intermediary ~~shall~~ must submit documentation of completion of the continuing education requirement upon the request of the board or division staff. Hours of participation are not transferable to certification periods other than the one in which the participation occurred.

b. ~~From and after November 1, 2006, and for every renewal of certification after that date, all confidential intermediaries shall comply with these adopted policies regarding continuing education.~~

3. Responsibilities of Confidential Intermediaries.

a. ~~It is the responsibility of each~~ Each confidential intermediary ~~to~~ must ensure compliance with the continuing education requirements, maintain documentation of their completion of each year's continuing education requirement for 5 years after the end of the year to which the continuing education applies, and to submit the maintained

documentation to division staff upon the request of the board or division staff.

- b. Upon request, each confidential intermediary ~~shall~~must provide any additional information required by the board or division staff when reviewing renewal applications and continuing education documentation.

- e. [no change]

4. Authorized Continuing Education Activities.

- a. Continuing Education. –Continuing education activity ~~shall~~must address areas of proficiency, competency, and performance of a confidential intermediary, impart knowledge and understanding of the profession, search techniques, Arizona court jurisdiction and responsibilities, the Arizona tribal court system, cultural issues, administrative matters and ~~areas~~subjects involving adoption, the adoption triad, and dependency.

- b. Conferences. –A confidential intermediary may receive continuing education credit for attendance at a conference relevant to the profession. If a conference is directly related to the confidential intermediary profession, a confidential intermediary may receive 100 percent of the satisfy all 6 hours of that year’s continuing education credits requirement for attendance at the conference, if the conference is directly related to the confidential intermediary profession providing that the confidential intermediary satisfies the 1-hour ethics requirements during the applicable certification period. Introductory remarks, breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.

- e. University, College and Other Educational Institution Courses. –A confidential intermediary may receive continuing education credit for a course provided by a university, college, or other institutionally accredited educational program if the confidential intermediary successfully completes the course with a grade of “C” or better or a “pass” in a pass/fail grading system. A confidential intermediary may receive continuing education credit of up to two times the number of credit hours awarded by the educational institution, if the course is relevant to the confidential intermediary profession, adoption, adoption searches, or a related field, ~~of up to two times the number of credit hours awarded by the educational institution~~. The maximum hours of continuing education credits earned from educational course work ~~shall~~may not exceed 50 percent of the total number of continuing education hours required ~~for~~renewal during the certification period.

- e. Authoring or Coauthoring Articles. A confidential intermediary may receive continuing education credit for authoring or coauthoring an article directly related to ~~areas~~the subjects of adoptions, adoption searches, or triad issues; 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. –A confidential intermediary may earn a maximum of ~~one~~1 hour of continuing education credit each year for authoring ~~of~~ articles. –A

confidential intermediary ~~shall~~ may not receive credit for the same article published in more than one publication or republished in the same publication in later editions.

- e. Self-Study. A confidential intermediary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, ~~and listening to audio tapes materials~~, attending online ~~computer~~ seminars, and other methods of independent learning. -The maximum hours of continuing education credits earned in a self-study format may not exceed 50 percent of the total number of continuing education hours required ~~for renewal during the certification period~~. The remaining hours must be obtained through live training, meaning training or education provided by one or more faculty or facilitators to an individual or a group using real-time interaction.
  - f. Serving as Faculty. A confidential intermediary may receive continuing education credit for serving as an instructor, speaker, panel, or faculty member of an instructional seminar directly related to the profession of confidential intermediary. A confidential intermediary may receive continuing education credit for the presentation time and up to two hours of preparation time for each hour of presentation. The maximum hours of continuing education credits earned as faculty credit ~~shall~~ may not exceed 50 percent of the total number of continuing education hours required ~~for renewal during the certification period~~. ~~and a~~ A confidential intermediary ~~shall~~ may not receive duplicate credit for repeating a presentation during the ~~certificate~~ certification period.
5. Minimum Time. Each continuing education activity ~~shall~~ must consist of at least 30 minutes of actual clock time spent ~~by a confidential intermediary~~ in actual attendance at ~~and~~ or completion of a continuing education activity. “Actual clock time” includes the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the first 30 minutes of a continuing education activity, credit ~~shall~~ will be recognized in ~~fifteen~~ 15-minute increments.
  6. Maximum Credit. Unless the board otherwise determines a continuing education activity is directly related to the confidential intermediary profession, a confidential intermediary ~~shall~~ may not receive more than 50 percent of the credit requirement for the ~~certificate~~ certification period through one activity.
  7. Non-Qualifying Activities.
    - a. The following activities ~~shall~~ do not qualify for continuing education credit for confidential intermediaries:
      - (1) Program training completed to qualify for certification;
      - (2) Mentoring. ~~A confidential intermediary shall not receive continuing education credit for mentoring activities;~~
      - (3) Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions or program orientation;
      - (4) Serving on committees or councils or as officers in a professional organization; and
      - (5) Activities completed as required by the board as part of a disciplinary action.

- b. [no change]
  - c. If a confidential intermediary attends part, but not all, of a continuing education activity, the confidential intermediary is not eligible to claim partial credit completion.
8. Documentation of Attendance or Completion. When attending or completing a continuing education activity, each confidential intermediary ~~shall~~must obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation ~~shall~~must include the:
- a. through f. [no change]
9. Compliance and Non-Compliance.
- a. Affidavit of Compliance. A confidential intermediary ~~shall~~must submit an affidavit of continuing education compliance when applying for renewal of certification. The affidavit ~~shall~~must be in the format provided by the division staff.
  - b. ~~Proration of Continuing Education Requirement. —A confidential intermediary whose certificate expires less than one 1 year from the effective date of certification shall~~must complete no less than six 6 hours of continuing education credit during the balance of the certification period. — In subsequent certification periods, the confidential intermediary ~~shall~~must complete the biennial twelve 12-hour continuing education requirement. — Proration of the continuing education requirement does not apply to confidential intermediaries who previously held certification and allowed their certification to lapse.
  - c. Extension or Waiver of Continuing Education Requirements. —A confidential intermediary seeking renewal of certification who has not fully complied with the continuing education requirements may request an extension or waiver of the continuing education requirements under the following conditions:
    - (1) [no change]
    - (2) The board ~~shall~~must determine whether extenuating circumstances exist. In reviewing the request, the board ~~shall~~must consider if the confidential intermediary has been unable to devote sufficient hours to fulfill the requirements during the certificate period because of:
      - (a) full-time service in the armed forces of the United States during a substantial part of the ~~certificate~~certification period;
      - (b) an incapacitating illness documented by a statement from a currently licensed physician treating the confidential intermediary;
      - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed physician treating the confidential intermediary; or
      - (d) any other special circumstances the board deems appropriate.

(3) through (4) [no change]

d. through e. [no change]

10. Board Decision Regarding Continuing Education Compliance.

a. [no change]

b. The division staff ~~shall~~must promptly notify the confidential intermediary, in writing, of the board's decision. A confidential intermediary may appeal the decision by submitting a written request for review to the confidential intermediary program within ~~fifteen~~15 days of receipt of notification of the board's decision. The confidential intermediary requesting review may request to appear before the board at the next available regularly scheduled board meeting.

c. The certification of a confidential intermediary who timely appeals a decision by the board regarding continuing education ~~shall~~will continue in force until a final decision is made by the board.

d. The board ~~shall~~must ~~make the decision on~~issue its decision on the appeal in writing. The decision is final and binding.

**M. Client Fee Schedule.** Pursuant to A.R.S. § 8-134(I) and A.R.S. § 8-543, the supreme court's ~~shall~~authority to administer the confidential intermediary and sibling information exchange programs. ~~The court shall adopt rules and procedures necessary to implement the programs, including required and permissible fees. A~~ confidential intermediary may not charge clients ~~an amount not to exceed the fees listed in this subsection~~ for adoption search related services in excess of the following amounts:

1. Initial Search Set-Up Fee \$100.00

(This is a one-time fee the confidential intermediary may charge and collect for services that result in search services. ~~These services include~~ including any initial review and consultation related to search services.)

2. Investigation/Research Hourly Rate \$100.00

(Maximum rate allowable.)

3. Bookkeeping/Travel Hourly Rate \$ 50.00

(Maximum rate allowable.)

4. Direct Costs and Expenses Billable at Rates Incurred

(~~Current~~ Mileage billed may not exceed the current state of Arizona Department of Administration General Accounting Office personal vehicle mileage allowance reimbursement rate as posted on the Arizona government's website published in the State of Arizona Accounting Manual.)