

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	No. 2023 - <u>192</u>
§ 5-306: FIREARMS)	(Affecting Administrative
)	Order No. 2022-137)
)	

Pursuant to the Arizona Code of Judicial Administration (ACJA) § 1-201(E), the Chief Justice may adopt technical changes in existing administrative code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

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

IT IS ORDERED that the amendments to ACJA § 5-306 as indicated on the attached document are adopted. All other provisions of § 5-306 remain unchanged and in effect.

Dated this 8th day of November, 2023.

ROBERT BRUTINEL
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 5: Court Operations
Chapter 3: Court Security
Section: 5-306: Firearms

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

* * *

“Immediate threat” means the subject poses a risk of instant harm or attack with the elements of jeopardy, opportunity, and ability.

* * *

B. and C. [No change]

D. Administration.

1. Responsibilities of the Director. The director shall:

- a. Approve uniform, standardized, and statewide firearms training academies and annual re-qualification for officers.
- b. and c. [No change]

2. Responsibilities of the Presiding Judge.

- a. and b. [No change]
- c. The presiding judge shall document and certify on a form approved by the director, prior to granting authorization, that the officer has:
 - (1) through (6) [No change]
 - (7) Submitted a form, approved by the director, attesting that:
 - (a) and (b) [No change]
 - (c) The officer is not addicted to alcohol, cannabis/marijuana, or prescription drugs;
 - (d) and (e) [No change]
 - (f) The officer shall abide by all Arizona Code of Judicial Administration (ACJA) requirements and department policies regarding handguns.
- d. [No change]

E. and F. [No change]

G. Procedure for Denial, Temporary Suspension, or Revocation of Firearm Authorization.

1. through 4. [No change]
5. The presiding judge shall deny, revoke, or suspend authorization to carry a handgun for the following reasons:
 - a. through c. [No change]
 - d. A result from a criminal history record check or a self-report indicating any of the following:
 - (1) The conviction of a felony or an offense, which would be a felony if committed in this state;
 - (2) The commission of any offense involving dishonesty, unlawful sexual conduct, physical violence, or domestic violence;
 - (3) and (4) [No change]
 - e. through g. [No change]
 - h. Any use of alcoholic beverages or cannabis/marijuana on duty or excessive use of alcoholic beverages or cannabis/marijuana off duty that affects job performance;
 - i. through j. [No change]
 - k. The addiction to alcohol, cannabis/marijuana, or prescription drugs that would interfere with the safe use of a firearm and render the officer unfit to carry a firearm;
 - l. [No change]
 - ~~m. An officer is found to have illegally used marijuana for any purpose within the past three years;~~
 - ~~n.m.~~ Transfer or reassignment of an officer to an assignment where carrying a handgun is not authorized;
 - ~~o.n.~~ The authorization was based solely upon a specific personal risk to the officer and the risk is determined to no longer exist;
 - ~~p.o.~~ Arrest for an offense punishable as a felony or for a misdemeanor involving the carrying or use of a firearm;
 - ~~q.p.~~ Discharge of a firearm by an officer in violation of any municipal, county or state law, regulation or policy;
 - ~~r.q.~~ Drawing a firearm or use of a non-lethal defensive weapon in violation of any municipal, county or state law, regulation or policy;

s-r. Any circumstance, temporary or permanent, other than time in service, which leads the security director to believe that arming the officer could place that officer, other staff, or the public in jeopardy; or

t-s. Failure to successfully complete the annual re-qualification program and participate in required practice sessions.

6. and 7. [No change]

H. Handgun Authorization.

1. [No change]

2. An officer failing to comply with regulations and limitations ~~are~~is subject to disciplinary action and loss of handgun authorization.

3. [No change]

4. The presiding judge may order an authorized officer to submit to an evaluation by a licensed or certified professional when the officer is not performing assigned job functions adequately or ~~who~~is experiencing problems which could affect job performance or the safety of the public and employees.

I. Restrictions for Carrying Firearm. An officer authorized to carry and use a firearm is prohibited from carrying an authorized firearm while on duty under the following conditions:

1. While in a condition resulting from the use of alcohol, cannabis/marijuana, or medication where the officer's motor skills, reflexes, or judgment could be adversely affected or while displaying evidence of mental or emotional instability;

2. and 3. [No change]

J. Authority to Unholster Handgun. An officer shall only unholster their handgun, under the following conditions and as authorized in this section.

1. and 2. [No change]

3. For maintenance, inspection, and training purposes; and

4. When using the weapon in an approved training course, practice session, or qualification with the CFI.

K. Required Reporting of Handgun Unholstering in Course of Duty.

1. Except for training or to secure a handgun or when requested by a CFI for purposes of maintenance, or inspection, an officer who unholsters, but does not discharge a handgun

while on duty, shall submit a written report to the officer's supervisor no later than the next business day.

2. and 3. [No change]

L. Authority to Discharge Firearm.

1. An officer shall determine that deadly force is warranted under the circumstances provided by statute before using deadly force in the performance of the officer's duties as provided for in ACJA § 5-305.
2. [No change]
3. An officer may use firearms on an approved range or during other approved training, practice, or qualification when supervised by a CFI or in other director-approved training.

M. Responses to Discharges and Firearm Involved Incidents. The presiding judge shall respond to discharges and firearms involved incidents according to the following criteria:

1. through 3. [No change]
4. Each court that permits its officers to carry firearms shall have policies and procedures for the internal administrative investigation and responses of all firearm discharges or firearm involved incidents. Each court's policies and procedures shall include, but are not limited to, the following:
 - a. through d. [No change]
 - e. Notification to the county attorney and attorney general;
 - f. through h. [No change]
5. [No change]

N. [No change]

O. Firearm Safety and Storage.

1. An officer authorized to carry a firearm shall observe and practice the following safety regulations:
 - a. [No change]

b. An officer shall only dry-fire, clean, exhibit, load, or unload in a safe manner and environment;

c. and d. [No change]

2. through 4. [No change]

P. and Q. [No change]