

ARIZONA JUDICIAL COUNCIL

Request for Council Action

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**Date Action Requested:**  
June 19, 2026

**Type of Action Requested:**  
 Formal Action/Request  
 Information Only  
 Other

**Subject:**  
AMENDMENTS TO  
ACJA § 1-507

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**FROM:**

Mr. Stewart Bruner, COT & TAC Staff Member

**DISCUSSION:**

ACJA § 1-507 specifies requirements for the maintenance and protection of electronic documents used in court proceedings and for administrative purposes. Numerous leaps in technologies and strategies for document management have taken place since the review of the document. In the course of implementing a new electronic document management system to support paperless processes and e-filing, Pima Superior Court discovered gaps between the code section and current practices then requested updates to bring it up to date.

The amended document addresses changes in system location (on premises or hosted in the cloud), the manner and required timing of accomplishing required redundancy, and means of protecting backup copies against ransomware. The proposal also includes non-substantive editorial changes and additions of duplicated requirements for parallelism between court-case-related and administrative records. Stewart Bruner will highlight the most significant proposed changes for members.

**RECOMMENDED COUNCIL ACTION:**

Approve the amendments to ACJA § 1-507, as recommended by the Commission on Technology.

ARIZONA CODE OF JUDICIAL ADMINISTRATION

**Proposal Cover Sheet**

**Part 1: Judicial Branch of Administration**

**Chapter 5: Automation**

**Section 1-507: Protection of Electronic Records in Paperless Court Operations**

1. **Effect of the proposal:** Updates are being proposed at the request of Pima Superior Court as they endeavor to implement an electronic document management system and related paperless business process. Technology advancements coupled with industry changes since the previous review in 2016 necessitate revisions to requirements in Sections D, E, and H based on system location (on premises or hosted in the cloud), for the manner of accomplishing redundancy with its required timing, and for protection of backup copies against ransomware. The proposal also includes non-substantive, editorial changes and additions of duplicated requirements for parallelism.
2. **Significant new or changed provisions:**
  - Replaces all outdated requirements for levels of RAID (Redundant Array of Independent Disks) on spinning storage.
  - Delineates requirements specific to cloud-hosted systems and specific to on-premises systems.
  - Requires replacement of antiquated EDMS log shipping strategy with any means of near-real-time data replication accomplished within the data storage technology.
  - Specifies a minimum frequency for creation of tertiary backups of data and requires immutability as an ultimate protection against ransomware.
3. **Committee actions and comments:** Staff performed the initial review then provided proposed changes to TAC and subsequently to COT. Members authorized posting of the proposed revisions on the ACJA Web Forum for comments. Participants' comments were incorporated into a final draft re-reviewed by TAC and COT. Members of the Committee on Probation, LJC, COSC, and COT were provided the redlined document and encouraged to comment on specific issues in scheduled meetings. The document was also posted on the AJCA Web Forum from February 12, 2026, through April 24, 2026.
4. **Controversial issues:** None. Care has been taken to minimize substantive changes to those necessary to address technology and industry updates, along with clarifications requested by Pima Superior Court since the document was last reviewed in 2016.
5. **Recommendation:** Recommend approval of the proposed substantive updates and editorial changes to ACJA Section 1-507.

COMMENTER	PARAGRAPH	COMMENT	RESPONSE
LJC Alexis Allen / COT Marcos Romero	(D)(5)(a)	It's not clear that the term "contractor" would cover an employee of another government entity, either a city or county. Does it?	A contractor can be <u>any</u> non-court employee with whom a formal support agreement or contract for services exists. <i>Verbal explanation was acceptable to Marcos in the COT meeting and Alexis in the LJC meeting.</i>
LJC Alexis Allen	(D)(2) and (3)	While references to cloud-hosted or on-premises were added in several paragraphs, is the lack of those terms in the other paragraphs significant? It may be better to describe two different sets of requirements in two separate sections – one for on-premises and one for in the cloud. <i>LJC's motion included a stipulation that staff review the terminology in the requirements paragraphs and include distinctions where necessary or clarify that the lack of calling out on-premises or in-cloud means the requirement applies equally to both environments.</i>	Since the document previously covered on-premises operation only, Phoenix clarified only specific requirements they felt <u>did</u> and <u>did not</u> apply to cloud hosting by distinguishing between "cloud-hosted" and "on-premises" requirements at places in the text, with which TAC concurred. In light of that distinction being made, those requirements lacking any distinction were deemed to apply equally to both scenarios. Staff reached out to Phoenix for a response to the comment and Phoenix reps responded that the easiest reading of the document is to ascribe a requirement lacking any distinction equally to both environments. Staff made no changes to the document.
	Code Section Forum Stats	131 views, 0 comments	N/A

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 5: Automation**  
**Section 1-507: Protection of Electronic Records in Paperless Court Operations**

**A. Definitions.** In this section, the definitions set out in section 1-504 apply. In addition:

“Administrative record” means any record created or received by a court that does not pertain to a particular case or controversy filed with a court. Administrative records include any record maintained by any board, committee, commission, council, or regulatory body, including records of the regulation and discipline of attorneys.

“Case management system” (CMS) means the information system that captures, maintains and provides access to data related to court cases over time, enabling systematic control of records through their lifecycle. It is often connected to a document management system that stores case-related documents electronically.

“Case record” means any record pertaining to a particular case or controversy.

“Closed case” means any case file record that is no longer subject to modification.

“Cloud-hosted” refers to data storage or computer applications that reside on remote servers outside of court premises and accessible using the Internet.

“Courts” means courts or clerks of court.

“Electronic record” means any record that requires the aid of a computer to be read, including imaged documents and files, whether stored in an EDMS or a CMS.

“Electronic Archive” means an electronic document repository consisting of imaged or e-filed documents associated only with closed cases.

“Electronic document management system (EDMS)” means a collection of computer software application programs and hardware devices that provides a means of organizing and controlling the creation, management and retrieval of documents through their life cycle.

“Offsite” means a temperature-controlled storage location physically located sufficient distance away from the main storage environment that an adverse event that affects the one does not affect the other.

“Online” means the storage of digital data on magnetic disks (such as hard drives) to make it directly and quickly accessible on the network using the application associated with the data.

~~“RAID” means Redundant Array of Independent Disks, a data storage system made of two or more ordinary hard disks and a special disk controller. Various RAID levels exist including RAID 1 which mirrors disks for fault tolerance and RAID 5 which stripes a set of disks for~~

increased performance with fault tolerance.

“Regulatory case record” means any record that pertains to the regulation of a particular professional or business registered, licensed or certified pursuant to rules adopted by the supreme court.

“Storage” means a permanent repository for holding digital data that retains its content until purposely erased, even when electrical power is removed.

**B. and C. [No change]**

**D. Requirements Applicable to Case Records.**

1. General Requirements.

- a. through d. [No change]

2. Document Management Requirements.

- a. Courts shall use an electronic document management system (EDMS) that complies with ACJA § 1-505, or be granted an exception by Commission on Technology to use a non-conforming system.
- b. ~~The~~ If not cloud-hosted, EDMS application data shall reside on at least two physically separate servers each using separate internal storage, structured query language (SQL) databases, and backup software. Log shipping Replication shall be employed not less than daily to maintain synchronization of the two EDMSs application data stores for disaster recovery purposes.
- c. At least six months of full-time production use of an EDMS is required before a court may request authorization to begin destroying the paper records corresponding to electronic records stored on the system, as required by ~~subsection~~ paragraph (F) of this section.

3. Storage Requirements.

- a. If not cloud hosted, Courts shall maintain primary and secondary copies of records online at all times using at least two physically separate storage arrays devices configured to ensure the failure of any single component of the array will not impact the integrity of the data. New records shall be written simultaneously to all disk arrays. Data replication must be in as near-real-time as possible, not to exceed 30 minutes, within the available network constraints.
- b. For on-premises systems, Primary and secondary storage shall be designed with redundant hardware and software to support fast recovery of data. attached only to servers having redundant power supplies, network interface cards, and controller cards

~~or to virtual servers having automatic failover hosts. Use of personal computers containing extra hard drives or attached storage devices is prohibited.~~

- c. Courts shall use redundant network paths to connect workstations and imaging devices to EDMS application servers.
- d. ~~For on-premises systems, C~~courts shall employ uninterruptable power supplies and software that ensure a controlled shutdown of servers after batteries have been in use for at least five minutes.
- e. Courts shall store a tertiary copy of records on highly-secured, immutable backup media. The tertiary copy shall only be accessed through a gateway technology that prevents direct access to the storage media from the system(s) being backed up. Manufacturer's usage specifications and backup system media replacement guidelines shall be followed at all times, in accordance with ACJA § 1-504(G)(2).
- f. At a minimum, the tertiary backup shall be performed daily using automated backup software.
- ~~f.g. Backups media shall be stored in a secure, environmentally controlled, offsite location and retained a minimum of 28 days offsite before reuse. Full backups shall should be made not less than weekly and retained a minimum of 28 days offsite before reuse.~~
- ~~g.h. Backup and restoration procedures shall be documented and tested for effectiveness.~~
- ~~h.i. Scanned records shall appear on the backup media as well as primary and secondary storage before corresponding paper is destroyed.~~

4. [No change]

5. Support and Maintenance Requirements.

- a. At least one Ccourt employee personnel or contractors must hold a current Hyland Certified OnBase Administrator Expert credential or equivalent certification, including for any approved, non-conforming EDMS, be certified in the following areas required to proficiently operate and maintain the records management system:
  - ~~(1) Microsoft Certified Systems Administrator~~
  - ~~(2) Microsoft Certified Database Administrator~~
  - ~~(3) OnBase Certified Advanced System Administrator or equivalent for any approved, non-conforming EDMS.~~
- b. through f. [No change]

**E. Requirements Applicable to Administrative and Regulatory Case Records.** Requirements

applicable to case records in paragraph (D) apply to administrative and regulatory case records with the following modifications.

1. If not cloud-hosted, ~~t~~The EDMS application may reside on one server, rather than two separate servers.
2. Copies of the records may be limited to one primary copy and one backup copy. The primary copy of all electronic records shall be maintained online at all times ~~using at least one RAID Level 5 disk or storage array.~~
3. ~~The server on which the EDMS application and records reside shall, at a minimum, be attached to or contain magnetic storage in a RAID Level 1 configuration.~~
- 4.3. Servers used for an electronic archive shall be ~~installed in a rack or other fixture~~ located in a secure, environmentally controlled area.
- 5.4. The backup copy of the records shall be stored on highly-secured, immutable, backup media. The tertiary copy shall only be accessed through a gateway technology that prevents direct access to the storage media from the system(s) being backed up. Manufacturer's usage specifications and backup system media replacement guidelines shall be followed at all times, in accordance with ACJA § 1-504(G)(2).
- 6.5. At a minimum, a ~~A~~ daily, ~~incremental~~ backup of the primary copy of records ~~added to the archive~~ shall be made using automated backup software.
6. Backups shall be stored in a secure, environmentally controlled, offsite location and retained a minimum of 28 days. Full backups should be made not less than weekly and retained a minimum of 28 days offsite before reuse.
7. When any system outage occurs, all records must be available not later than the end of the tenth business day.

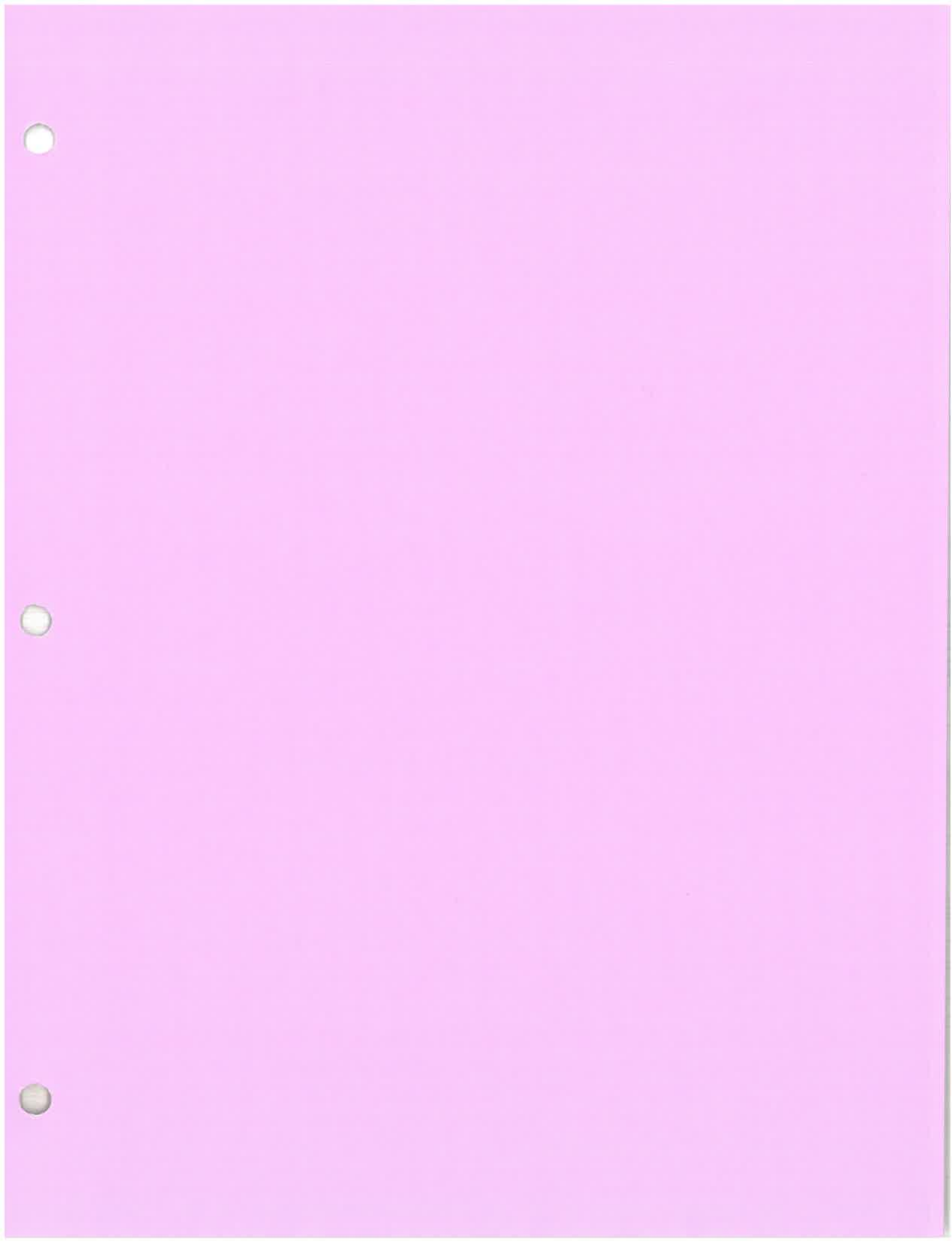
**F. Authorization to Destroy Paper Case Records.** Any court desiring to implement a paperless case record operation shall obtain advance written approval of its operational policies and EDMS infrastructure as described herein from the Administrative Office of the Courts (AOC). The AOC shall provide a form for courts to use to request approval. The form shall include a checklist of audit criteria for electronic records management practices and infrastructure.

1. through 6. [No change]
7. Authorization is not needed to destroy paper case records maintained in the central document repository supported by the AOC or other document repository approved by the Arizona Judicial Council or the Commission on Technology, provided the court complies with subsections paragraphs (D)(1)(c)&(d), (D)(4)(b)&(c), and (D)(5)(c) of this section and all related operational requirements of ACJA §§ 1-504 and 1-506.

**G. Authorization to Destroy Paper Administrative and Regulatory Case Records.** The presiding judge of the county is authorized to approve destruction of paper administrative and regulatory case records maintained by the courts under the presiding judge's supervision. The administrative director is authorized to approve destruction of paper administrative and regulatory case records maintained by the AOC. They shall ensure that the applicable standards and protocols established by ~~subsection~~ paragraph (E) have been met before approving destruction of paper records. Superior court clerks who meet the requirements of ~~subsection~~ paragraph (E) are authorized to destroy the paper administrative and regulatory records they maintain without prior approval of the presiding judge.

**H. Electronic Archives of Closed Cases in Limited Jurisdiction Courts.** Justice and municipal courts that wish to create an electronic archive of closed case files and destroy the corresponding paper records prior to the applicable retention and destruction date shall meet all standards and protocols established by ~~this section~~ in paragraph (D), with the following modifications:

1. Copies of the archived records can be limited to one primary copy and one backup copy. ~~The primary copy of all electronic records in the archive shall be maintained online at all times using at least one RAID Level 5 disk or storage array.~~
2. ~~The EDMS application, SQL database, and backup software for the archive may reside on internal magnetic storage in a RAID Level 1 configuration, if these applications are not stored on the RAID Level 5 disk or storage array.~~
- 3.2. On-premises sServers used for an electronic archive shall be ~~installed in a rack or other fixture~~ located in a secure, environmentally controlled area.
4. ~~The backup copy of the archive shall meet the requirements of subsection (D)(3)(e).~~
- 5.3. A daily, incremental backup of the primary copy of records added to the electronic archive shall be made using automated backup software.
- 6.4. Courts are not required to ~~comply with subsection (D)(3)(e)~~ have redundant network pathways from end-user devices to the electronic archive.
- 7.5. When any system outage occurs, all archived records must be available not later than the end of the fifth business day.



## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

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**Date Action Requested:**

June 19, 2026

**Type of Action Requested:**

Formal Action/Request  
 Information Only  
 Other

**Subject:**

ACJA § 7-202:  
Fiduciary

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**FROM:**

Certification and Licensing Division  
Abby Raddatz - Division Director  
Wil Castro – Certification, Boards and Support Unit Manager

**DISCUSSION:**

The proposed changes to ACJA § 7-202 reorganize the current single, lengthy section into a clearer, topic-based structure within a new Article 2. Most content is restyled for clarity, updated language, and consistency with Article 1, while preserving the substance of existing rules. Key improvements include consolidating definitions, reorganizing fiduciary conduct standards into focused sections, and modernizing language to reduce ambiguity. Several provisions also incorporate guidance from the National Guardianship Association to fill gaps and better articulate standards, especially in decision-making, estate management, and medical decisions.

While much of the proposal is organizational, it includes targeted policy updates requested by the Certification and Licensing Division. These include clarifying trainee supervision requirements, removing inconsistent trainee application provisions, requiring disclosure of fiduciary business ownership, strengthening conflict-of-interest rules, adding notice obligations, and addressing gaps related to resignation, termination, and post-revocation conduct. Updates to discipline provisions and protections surrounding client records further enhance program oversight. For more detailed explanations of these changes, please refer to the Executive Summary.

**RECOMMENDED COUNCIL ACTION:**

Approve suggested changes.

# EXECUTIVE SUMMARY

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## Proposed Changes to ACJA § 7-202 (Fiduciaries)

### *Reorganization*

- Following the adoption of ACJA Part 7, Chapter 2, Article 1 (ACJA § 7-201 through 7-201.39), the General Requirements for all Certification and Licensing Programs, this proposal restyles and reorganizes ACJA § 7-202 to conform to the changes made with the addition of Article 1.
- The existing ACJA § 7-202 is a single, 34-page section. This proposal adds a new Article 2 (Fiduciaries) to ACJA Part 7, Chapter 2 (Certification and Licensing Programs). Within the new Article 2, the existing § 7-202 is broken into the following §§ 7-202 through 7-202.28:

7-202	Scope	7-202.14	License Renewal
7-202.01	Definitions	7-202.15	Notice Requirements
7-202.02	Jurisdiction	7-202.16	Fiduciary Code of Conduct
7-202.03	Administration	7-202.17	Relationship to Court
7-202.04	Fiduciary Board	7-202.18	Decision-Making
7-202.05	Individual Licensing Eligibility	7-202.19	Conflict of Interest
7-202.06	Trainees	7-202.20	Guardian of Person
7-202.07	Examinations	7-202.21	Medical Decisions
7-202.08	Initial Licensing; Application Process	7-202.22	Managing Estate of Protected Person
7-202.09	Exemptions	7-202.23	Authorized Services
7-202.10	Licensing Denial	7-202.24	Prohibited Conduct
7-202.11	Licensee Affiliation	7-202.25	Fiduciary Compensation
7-202.12	Licensed Entity; Designated Principal	7-202.26	Resignation or Termination
7-202.13	Continuing Education	7-202.27	Discipline
		7-202.28	Fee Schedule

- A.R.S. § 14-5651(A) provides for supreme court administration of the fiduciary program, the adoption of rules for its implementation, and the minimum content of the rules. The proposal includes the statutory elements but does not repeat all the statutory directives.
- The draft proposal makes major changes to the order of existing content. The Legislative Version (showing deletions as stricken and new text as underlined) of the draft contains large chunks of deleted text and text that appears to be all new when deleted text appears in its new location. The relocated text has also been revised, so in many cases a blue box has been inserted below the new text showing how the existing text has been modified. As a result, the Legislative Version is a lengthy 92 pages.

## ***Restyling***

- The proposed sections redraft existing language in plain English and according to updated standards for writing rules or legislation.
- Significant duplication is eliminated.
- Antiquated language is updated.
- Ambiguous words are eliminated (or at least avoided)
- Defined terms are used to avoid unnecessary repetition and eliminate the problems associated with saying the same thing in a different way each time.

## **— New Sections —**

### ***7-201.02: Scope***

- Explains the relationship between Articles 1 and 2.

### ***7-202.01: Definitions***

- Existing definitions are restyled consistent with Article 1. Many of the existing definitions are revised for clarity.
- Several existing definitions are revised to correct statutory citations.
- Definitions of currently undefined terms are added.
- Some terms defined in the current text of § 7-202 are relocated to this section.

### ***7-201.02: Jurisdiction***

- Cleans up language; makes no substantive changes.

### ***7-201.03: Administration***

- Cleans up language; makes no substantive changes.

### ***7-202.04: Fiduciary Board***

- Cleans up language; makes no substantive changes.

### ***7-202.05: Individual Licensing Eligibility***

- Simplified by deleting repetitive language from the professional requirements and relocating it to § 7-202.06 (Trainees).
- Simplified by numbering each of the professional education, training, and experience options for easier reference.
- Provisions about examinations moved to § 7-202.07 (Examinations).

#### **7-202.06: Trainees**

- Includes the rules for satisfying the work experience requirement.
- Includes the existing limitations on trainee activity.
- Attempts to consolidate the requirements for trainee supervision here.
- Clarifies who is allowed to supervise a trainee's work in satisfaction of the work experience requirement.

#### **7-202.07: Examinations**

- Reorganizes; makes no substantive changes.

#### **7-202.08: Initial Licensing; Application Process**

- **Change:** This draft proposes deleting the existing § 7-202(F)(7) provision that a trainee may apply after completing 1 year of full-time equivalent service as a trainee if the trainee is otherwise eligible for licensing under ACJA § 7-202.05(B).
  - *Rationale: If the applicant still must complete the applicable work requirement, then the existing language doesn't make sense under many of the existing professional education and experience options. For example, after one year, an applicant might still need to complete 2 years of work experience. The board may grant an exception as to the period of time over which the work experience may be gained, but it can't shorten the work experience requirement under current 7-202(E)(1)(a)(3) and proposed 7-202.05(B)(2).*
- **Change:** A change is requested by CLD in proposed ACJA § 7-202.27(B)(2)(c) to prohibit a fiduciary whose license has been revoked from having an ownership interest in a fiduciary business. The change in this section would require an entity application to be accompanied by a list of all persons with an ownership interest in the business entity applicant.
  - *Rationale: Producing a list of entity owners would allow CLD to determine whether any are former licensees whose licenses were revoked.*

#### **7-202.09: Exemptions**

- Cleans up language; makes no substantive changes.

#### **7-202.10: Licensing Denial**

- Cleans up language; makes no substantive changes.

#### **7-202.11: License Affiliation**

- Cleans up language; makes no substantive changes.

**7-202.12: Licensed Entity; Designated Principal**

- Cleans up language; makes no substantive changes.

**7-202.13: Continuing Education**

- Substantially revised for clarity; reorganized; no substantive changes.

**7-202.14: License Renewal**

- Cleans up language; makes no substantive changes.

**7-202.15: Notice Requirements**

- Consolidates notice requirements from various locations in existing § 7-202.
- **Change:** A change requested by CLD is included here to require notice when a fiduciary credits an account to comply with a court order.
  - *Rationale: Fiduciaries are already required to give notice when they are ordered by the court to reimburse some or all fees or expenses. This change is the flip side of the existing notice so that the division is aware of when the court-ordered reimbursement occurs.*

**7-202.16: Fiduciary Code of Conduct**

- The existing Code of Conduct is substantially reorganized.
- The substantive standards included in this section are general in nature. Proposed § 7-202.16(C) provides that 10 additional sections are part of Arizona's Fiduciary Code of Conduct. The proposal relocates much of the current § 7-202(J) to these other sections.

C. Additional Standards. In addition to the standards of conduct in this section, the Fiduciary Code of Conduct includes the following standards governing:

1. A fiduciary's relationship with the court under ACJA § 7-202.17;
2. Decision-making under ACJA § 7-202.18;
3. Conflict of interest, including providing non-fiduciary services, under ACJA § 7-202.19;
4. Guardianship of the person under ACJA § 7-202.20;
5. Medical decisions under ACJA § 7-202.21;
6. Managing the estate of a protected person under ACJA § 7-202.22;
7. Authorized services under ACJA § 7-202.23;
8. Prohibited conduct under ACJA § 7-202.24;
9. Fiduciary compensation under ACJA § 7-202.25; and

#### 10. Resignation or termination under ACJA § 7-202.26.

- The current § 7-202(J) is a bit of a jumble. The proposal breaks it into a total of 11 sections (§ 7-202.16 and the sections identified in proposed § 7-202.16(C)). The subject-matter focus of these sections will make it easier to locate information.
- Once § 7-202(J) was reorganized by topic, some gaps became apparent. The National Guardianship Association's (NGA's) *Standards of Practice* (5<sup>th</sup> Ed., 2022) was used as guidance in reorganizing by topic and filling gaps, but it was not fully incorporated.
  - The Arizona Fiduciary Association notes that Arizona licensed fiduciaries are bound by § 7-202(J) but notes that the NGA is an excellent resource.
  - Any Arizona licensed fiduciaries with National Certified Guardian or National Master Guardian credentials are bound by the NGA Standards of Practice as well.

#### ***7-202.17: Relationship to Court***

- This section primarily reorganizes and redrafts existing requirements.

#### ***7-202.18: Decision-Making***

- This section primarily reorganizes and redrafts existing requirements.
- Revised to better articulate the standards for decision-making (when to make decisions based on the ward's or protected person's preferences and when to make a best-interest decision). The current code references both but does not adequately describe what each entails.

#### ***7-202.19: Conflict of Interest***

- Redrafts existing requirements to better define conflict of interest. The existing code is muddled in this regard. For example, § 7-202(J)(2)(b)(1) tells fiduciaries to avoid self-dealing and conflict of interest. In fact, self-dealing *is a conflict of interest*. The existing code also prohibits conduct without stating that it is prohibited because it is a conflict of interest.
- **Change:** The proposal includes providing non-fiduciary services in this section. CLD requested that the revisions better address that it is a conflict of interest when a fiduciary provides non-fiduciary services (or at least an appearance of a conflict) and comes with lots of inherent danger.
  - *Rationale: The proposal better describes a complete process for obtaining court approval to provide non-fiduciary services and includes factors relevant to that determination. This is the Code governing fiduciary conduct rather than judicial conduct, but the proposed § 7-202.19(C)(2)(c) advises fiduciaries to address a list of factors in a request for approval that would be relevant to the court's decision, including factors listed in A.R.S. § 14-5109(C). A corresponding Probate Rule amendment could be proposed in January 2027.*

**7-202.20: *Guardian of Person***

- This section primarily reorganizes and redrafts existing requirements.
- Incorporates A.R.S. § 14-5312(A)(4) and (6) as to the guardian’s responsibilities if there is also a conservator and when there is no conservator.

**7-202.21: *Medical Decisions***

- Although this section primarily reorganizes and redrafts existing provisions, it includes some helpful clarification from the NGA Standards.

**7-202.22: *Managing Estate of Protected Person***

- Although this section primarily reorganizes and redrafts existing provisions, it includes some helpful clarification from the NGA Standards.
- The existing Code states a standard of care for a conservator that is at odds with statutes (A.R.S. §§ 14-5417, 14-10804, and 14-10806). The current § 7-202(J)(5) introduces different language for how a conservator should conduct themselves (“must exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence in the discharge of all duties”). The current 7-202(J)(5) uses some statutory language but fails to articulate a standard of care. It does not appear to be trying to say something different from what is in statute, so it is unwise to deviate from the statutory standard of care and confuse fiduciaries or the public. The proposed § 7-202.22(B)(1) incorporates the statutory standard.
- The NGA Standard helped round out a conservator’s duties in managing assets, income, and liabilities in proposed § 7-202.22(D).

**7-202.23: *Authorized Services***

- This section primarily reorganizes and redrafts existing requirements.

**7-202.24: *Prohibited Conduct***

- This section primarily reorganizes and redrafts existing requirements.
- **Change:** Proposed § 7-202.24(D)(2) addresses a request from CLD to prohibit a fiduciary from operating under a business name unless the business is a licensed entity.

**7-202.25: *Fiduciary Compensation***

- This section primarily reorganizes and redrafts existing requirements.

**7-202.26: *Resignation or Termination***

- **Change:** The existing Code does not address fiduciary conduct in connection with a fiduciary’s resignation or termination. CLD has encountered serious difficulties with fiduciaries who have agreed to surrender their license in lieu of discipline but who then

continue to practice for an extended period while they find successors or close out their existing cases. They claim they can't surrender their licenses until final reports are done. They appear to be relying on Rule 40(b), Arizona Rules of Probate Procedure.

- *Rationale: Rule 40(b) seems to have been misapplied in these cases. It states: "Before resigning or having the court terminate the responsibilities of a court-appointed fiduciary, the fiduciary must comply with statutory requirements for withdrawal, including the filing of final reports and accounts."*
- *There is a difference between (1) a fiduciary who resigns from a case or whose duties are ending because the guardianship or conservatorship is being terminated and (2) a fiduciary whose license is involuntarily surrendered to avoid discipline. The proposal makes this distinction in § 7-202.26(C)(2). A corresponding Probate Rule amendment could be proposed in January 2027, if necessary.*
- **Changes:** This section addresses two CLD requests:
  - That the new Code provides that when a fiduciary's authority terminates, the fiduciary must promptly transfer the ward's or protected person's assets and records. This is addressed in proposed § 7-202.26(A)(2).
  - That the Code include something akin to the appointment of a conservator for a lawyer's files and client records under Supreme Court Rules 66-68 for fiduciaries. Proposed § 7-202.26(D) provides that the board may authorize filing a petition with the presiding probate judge to act as a conservator of a fiduciary's client files and records in an appropriate case.

#### ***7-202.27: Discipline***

- This section reorganizes and redrafts existing provisions.
- **Change:** CLD requested that a person whose license has been revoked or involuntarily terminated not be allowed to own a licensed entity or serve as a designated principal. This change is made in proposed § 7-202.27(B)(2)(c).
- **Change:** ACJA 7-201.18 now provides that someone seeking reinstatement of a license after suspension or revocation must comply with any requirements set in the article governing the profession or occupation. Payment of the reinstatement application fee is certainly one, but are there others? A placeholder for inserting such requirements is inserted in § 7-202.27(C) with some suggestions. CLD and the board need to weigh in before the draft is finalized.

#### ***7-202.28: Fee Schedule***

- This section reorganizes and redrafts the existing provision.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

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

**Chapter 2: Certification and Licensing Programs**

**Article 2: Fiduciaries**

**Section 7-202: Scope**

Together with Article 1, this Article 2 governs the application, licensing, and renewal process; the complaint and disciplinary process; and the administrative hearing process for fiduciaries other than financial institutions. Under ACJA § 7-201, the provisions of Article 1 govern the fiduciary program unless this article provides to the contrary, in which case the provisions of this article govern.

**Section 7-202.01: Definitions**

In addition to the definitions in the Arizona Code of Judicial Administration (ACJA) § 7-201.01, the following definitions apply to this article governing fiduciaries:

“Active and direct supervision” means the routine and regular monitoring and control exercised by a licensed fiduciary or designated principal over other licensed fiduciaries, professionals, trainees, and support staff performing or assisting the performance of authorized services delegated by the supervising licensed fiduciary or designated principal. Active and direct supervision does not require the supervisor’s constant physical presence if they are able—by radio, telephone, or electronic communication—to maintain the contact necessary to exercise the degree of monitoring and control required for active and direct supervision.

“Affinity” means a close relationship based on marriage rather than common ancestry.

“Board” means the fiduciary board.

“Consanguinity” means descending from a common ancestor.

“Conservator” means “a person who is appointed by a court to manage the estate of a protected person” under A.R.S. § 14-1201(10).

“Department director” means the Director of the Arizona Department of Veterans’ Services appointed under A.R.S. § 41-601.

“Devise” means “when used as a noun, ... a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will” under A.R.S. § 14-1201(14).

“Devisee” means “a person designated in a will to receive a devise” under A.R.S. § 14-1201(15).

“Division” means the certification and licensing division of the AOC.

“Entity” means a business entity, including a corporation, limited liability company, or partnership; the Arizona Department of Veterans’ Services; or the Office of the Public Fiduciary.

“Fiduciary,” consistent with A.R.S. § 14-5651(J) and (K)(1), means:

1. A person who, for a fee, serves as a court-appointed:
  - a. Guardian or conservator for one or more persons who are unrelated to the fiduciary.
  - b. Personal representative and who is not related to the decedent, is not nominated in a will or by a power conferred in a will, and is not a devisee in the will.
  - c. A trustee or agent under a power of attorney.
  - d. A public fiduciary as defined in this section.
  - e. The Arizona Department of Veterans’ Services.
2. A licensed fiduciary acting, with or without court appointment, as a guardian, conservator, personal representative, trustee, or agent under a power of attorney.

“Financial institution” has the meaning given in A.R.S. § 14-5651(K)(2):

“Financial institution” means a bank that is insured by the federal deposit insurance corporation and chartered under the laws of the United States or any state, a trust company owned by a bank holding company that is regulated by the federal reserve board or a trust company that is chartered under the laws of the United States or this state.

“Foreign personal representative” has the meaning given in A.R.S. § 14-1201(26): “a personal representative who is appointed by another jurisdiction.”

“Guardian” has the meaning given in A.R.S. § 14-1201(29): “a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes a person who is merely a guardian ad litem.”

“Guardian ad litem” means an individual who receives a limited capacity appointment by a court to represent the interest of an individual in a specific legal proceeding. A guardian ad litem is not required to be licensed under this article.

“Informed consent” means a voluntary decision following presentation of all facts necessary to form the basis of an intelligent consent by the person or guardian with no minimizing of known dangers of any procedures.

“Minor ward” has the meaning given in A.R.S. § 14-5101: “a minor for whom a guardian has been appointed solely because of minority.”

“Other Professionals” means individuals licensed in another field or discipline and who a licensed fiduciary or designated principal employs or contracts with, on behalf of a ward or decedent’s estate, to perform professional services for which they are licensed and includes registered nurses, licensed nurse practitioners, certified public accountants, certified paralegals, licensed attorneys, and certified legal document preparers.

“Personal representative” has the meaning given in A.R.S. § 14-1201 as including: “an executor, an administrator, a successor personal representative, a special administrator, and persons who perform substantially the same function under the law governing their status.”

“Program coordinator” means division staff assigned to administer the fiduciary program.

“Public fiduciary” means the office of the public fiduciary and the individual appointed by the board of supervisors in each county, and licensed under this article, to hold and perform the duties of the office for those persons or decedents’ estates in need of guardianship, conservatorship, or administration where there is no person qualified and willing to act in that capacity under A.R.S. §§ 14-5601 and 14-5602.

“Protected person” has the meaning given in A.R.S. § 14-5101: “a minor or any other person for whom a conservator has been appointed or any other protective order has been made.”

“Related” means a familial connection by blood, adoption, or marriage within the fifth degree of consanguinity or affinity.

“Support staff” means individuals who are:

1. Employed or contracted by the licensed fiduciary or designated principal to perform office functions and administrative services, including clerical, bookkeeping, or other administrative support duties; and
2. Not hired to engage in conduct or provide services, and do not engage in conduct or provide services, for which they are not licensed if a license is required under this chapter or Title 14, Chapter 5, Article 7, Arizona Revised Statutes.

“Within the fifth degree of consanguinity or affinity” means individuals descending from a common ancestor five generations back including who are connected by blood, adoption, or marriage as follows: a spouse or a surviving spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent, great-great grandparent, sibling, nephew or niece, great nephew or great niece, great-grandnephew or great-grand niece, uncle or aunt, great uncle or great aunt, great-grand uncle or great-grand aunt, first cousin, or first cousin once removed.

“Trainee” means an individual registered with the division and eligible to obtain the work experience required for fiduciary licensing under ACJA §§ 7-202.05(B) and 7-202.06.

“Ward” has the meaning given in A.R.S. § 14-5101: “a person for whom a guardian has been appointed.”

### **Section 7-202.02: Jurisdiction**

- A. Authority.** Under A.R.S. § 14-5651(A), the supreme court administers the fiduciary licensing program and adopts rules and establishes and collects fees necessary to implement the program.
- B. Purpose.** Together with Article 1, the essential purposes of this article are to provide for the licensing of fiduciaries eligible for appointment by the superior court under A.R.S. § 14-5651 and the effective administration of the fiduciary program for the protection of the public.

### **Section 7-202.03: Administration**

#### **A. Supreme Court.**

- 1. The supreme court administers the fiduciary licensing program, through the administrative office of the courts and the Arizona Code of Judicial Administration, under A.R.S. § 14-5651(A).
- 2. Under A.R.S. §§ 35-146 and 35-147, the supreme court must deposit the monies collected in administering the fiduciary program in the confidential intermediary and fiduciary fund established by A.R.S. § 8-135.

#### **B. Division Staff.** In addition to assisting in the administration of the fiduciary licensing program under ACJA § 7-201.03(D), A.R.S. § 14-5651(C)(6) requires the fiduciary program coordinator to serve as every licensed fiduciary’s lawful agent for accepting service of process in any action, lawsuit, or proceeding relating to their duties as a fiduciary by appointment under ACJA § 7-202.08(B).

1. Method of service. When the fiduciary program coordinator accepts service as a fiduciary’s lawful agent, the fiduciary program coordinator must transmit the service of process by registered mail to the fiduciary’s last known address.

#### 2. Exceptions.

a. The fiduciary program coordinator does not serve as a fiduciary’s agent for accepting service of process on a public fiduciary or the Arizona Department of Veterans’ Services.

- b. The fiduciary program coordinator does not serve as a fiduciary's agent for accepting service of process when the division is required to serve a licensed fiduciary under Article 1 of this chapter.

#### **Section 7-202.04: Fiduciary Board**

**A. Duties.** The fiduciary board exercises the authority and has the duties stated in ACJA § 7-201.04(D) and whenever board action is provided for under this chapter.

**B. Composition.** The fiduciary board has 11 members consisting of:

1. Three licensed fiduciaries who have worked as licensed fiduciaries in private practice for at least 5 years;
2. Two licensed fiduciaries who have worked as licensed fiduciaries in a public office for at least 5 years;
3. One active or retired judge of the superior court or the court of appeals;
4. One court administrator or clerk of the superior court;
5. One attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law;
6. Two public members; and
7. An additional member appointed by the chief justice.

#### **Section 7-202.05: Individual Licensing Eligibility**

**A. Personal Qualifications.**

1. Under A.R.S. § 14-5651(C), an individual applicant for a fiduciary license must:
  - a. Be at least 21 years old;
  - b. Be a citizen of the United States; and
  - c. Not have been convicted of a felony.
2. An applicant for a fiduciary license must not pose a risk to the public.

## **B. Professional Requirements.**

1. Education, training, and experience. Individual fiduciary licensing applicants must have the required combination of education, training, and **work** experience under one of the following options:
  - a. Option 1.
    - (1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test; and
    - (2) A minimum of 3 years of full-time equivalent work experience within the 10 years preceding application.
  - b. Option 2.
    - (1) A bachelor of arts, bachelor of science, or master's degree from an accredited college or university; and
    - (2) A minimum of 1 year of full-time equivalent work experience within the 5 years preceding application.
  - c. Option 3.
    - (1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test;
    - (2) A minimum of 2 years of work experience within the 10 years preceding application; and one of the following:
      - (a) A certificate of completion from a paralegal or legal assistant program that, although not approved by the American Bar Association, is institutionally accredited and requires successful completion of a minimum of 24 semester units, or its equivalent, in fiduciary specialization courses;
      - (b) A certificate of completion from an accredited educational program specifically designed to qualify an applicant for fiduciary licensing under this section; or
      - (c) A certificate of completion from a paralegal or fiduciary program approved by the American Bar Association.
  - d. Option 4.
    - (1) A juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of graduation or the applicant has been actively engaged in the authorized practice of law in one or more states, territories, or the District of Columbia for at least 3 of the last 5 years preceding the application; and
    - (2) Currently admitted to the active practice of law in any jurisdiction and in good standing or resigned in good standing in all jurisdictions where the applicant has been admitted.

e. Option 5.

- (1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test; and
- (2) Service as a foreign fiduciary appointed by court order; and
- (3) A minimum of 3 years of work experience as a fiduciary.

f. Option 6.

- (1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test; and
- (2) A registered master guardian certification in good standing with the National Guardianship Association or a Legal Paraprofessional licensed to provide legal services in probate law under Article 9 of this chapter.

2. Work experience modification. For good cause and on the recommendation of the division director, where there is a requirement that an applicant's work experience be completed within a specified number of years preceding the application, the board may accept an applicant's work experience over a greater number of years than those specified. But the board may not grant any exception to the total number of years of work experience required.

### Section 7-202.06: Trainees

#### A. Trainee Requirements.

1. A trainee seeking to satisfy the work experience requirement under ACJA § 7-202.05(1)(a)–(c), (e), and (f) (Options 1–3, 5, and 6) must:
  - a. Work under the active and direct supervision of a:
    - (1) Licensed fiduciary;
    - (2) Designated principal;
    - (3) Bank trust or trust company officer; or
    - (4) Licensed attorney whose major emphasis is probate, trust, elder, mental health, or disability law.
  - b. Submit a completed trainee registration form to the division.
  - c. Pay the trainee registration fee under ACJA § 7-202.28(A)(1)(d).
  - d. Submit a full set of fingerprints under ACJA § 7-201.10(B)(4) and A.R.S. § 14-5651(B).
  - e. Comply with the continuing education requirement for trainees under ACJA § 7-202.13.

2. The following requirements must be met for a trainee's supervised work to qualify as work experience under ACJA § 7-202.05(B)(1)(a)–(c), (e), and (f) (Options 1–3, 5, and 6):
  - a. The work must involve one or a combination of the fiduciary relationships of guardianship, conservatorship, personal representative, or trusts.
  - b. The work must involve performing services in the administration of a trust, decedent's estate, guardianship, or conservatorship.
  - c. The applicant must not be related to the individuals supervising the work or receiving the services.

### **B. Trainee Supervision.**

1. A fiduciary supervising a trainee must maintain primary responsibility for the client or estate and must not delegate this duty to a trainee.
2. A supervising fiduciary must:
  - a. Personally assume professional responsibility for providing guidance to a trainee who is performing services to gain work experience;
  - b. Provide active and direct supervision over the trainee's work at the level the supervising fiduciary finds necessary and appropriate;
  - c. Provide assistance to the trainee at the level the supervising fiduciary finds necessary and appropriate;
  - d. Ensure that the trainee is familiar with this article, including the code of conduct in ACJA § 7-201.16 through 7-202.26; and
  - e. Ensure that the supervising fiduciary's name and license number are included on any documents prepared by the trainee and filed in a court or tribunal.

### **C. Limitations.**

1. A trainee may only perform authorized services under the supervision of the licensed fiduciary or designated principal.
2. A trainee may only prepare documents for filing with the court as follows:
  - a. A trainee may only prepare documents that a fiduciary is authorized to prepare;
  - b. A trainee may only prepare documents for filing under the supervision of the licensed

fiduciary or designated principal; and

- c. A trainee is not authorized to file and must not file any document with the court.
3. A trainee must not provide informed verbal or written consent or enter into contractual agreements on behalf of a ward, licensed fiduciary, or designated principal.
4. Neither the trainee nor the supervising fiduciary may represent that the trainee is a licensed fiduciary.

### **Section 7-202.07: Examinations**

- A. Examination Requirement.** An applicant for fiduciary licensing must earn a passing score on the fiduciary licensing examination before filing their licensing application.
- B. Dates.** The fiduciary licensing examination must be offered:
  1. At least 4 times during each calendar year; and
  2. Examinations must not be more than 3 months apart.
- C. After Examination.** After passing the fiduciary licensing examination, the applicant must attend and complete mandatory training on the role and responsibilities of a licensed fiduciary.

### **Section 7-202.08: Initial Licensing; Application Process**

- A. Filing Application.**
  1. An applicant may apply for fiduciary licensing after completing the eligibility requirements under ACJA § 7-202.05(B) with any modification approved by the board under ACJA§ 7-202.05(B)(2).
  2. An applicant must file a completed licensing application no later than 90 days after receiving written notice of passing the fiduciary licensing examination.
    - a. The 90-day deadline may be extended for good cause under ACJA § 7-201.07(B).
    - b. An applicant who does not complete the application process within the 90-day period, including any extension, is considered a new applicant and must submit a new application with all initial licensing, examination, and training fees.
- B. Initial Application Form.** In addition to complying with the application requirements under ACJA § 7-201.10(B), the fiduciary applicant must, on the form specified by the division:

1. Attest that the applicant has not been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion;
2. Attest that the applicant has completed at least one of the education, training, and work experience options under ACJA § 7-202.05(B).
3. Consent to the jurisdiction of Arizona state courts for all legal proceedings arising under the laws governing fiduciaries and public fiduciaries;
4. Appoint the fiduciary program coordinator as their lawful agent for accepting service of process in any action, lawsuit, or proceeding relating to their duties as a fiduciary; and
5. Indicate whether the applicant intends to work in affiliation with a public fiduciary; the Arizona Department of Veterans' Services or the United States Department of Veterans Affairs; a business entity; another government entity; or independently.

**C. Bond.** Unless the applicant is exempt under ACJA § 7-202.09(B), the application must be accompanied by a \$20,000 cash or surety bond, which must be maintained for the duration of the fiduciary's license and any renewed license.

1. Surety bond. If the bond is a surety bond, it must be issued by an insurer holding a certificate of authority issued by the director of the Arizona Department of Insurance and authorized to do business in Arizona; must be executed on an approved bond form written in favor of the state of Arizona and the supreme court; and must contain:
  - a. A bond number;
  - b. The fiduciary applicant's name;
  - c. The name of the insurance company;
  - d. Have a total aggregate liability of \$20,000;
  - e. Have a provision that the insurer will not cancel the bond without at least 30 days prior written notice to the supreme court by the insurer; and
  - f. Be signed by the insurer and fiduciary applicant.
2. Cash bond. If a cash bond, it must be in the amount of \$20,000 and deposited with the state treasurer in a special non-interest-bearing account.
  - a. This cash bond is in addition to a bond required under A.R.S. §§ 14-5411(A) or 14-3603(A).

- b. This bond may be forfeited under A.R.S. § 14-5651(D) to compensate for investigation and hearing expenses if the fiduciary licensee is disciplined. If the bond is forfeited, the funds must be deposited in the confidential intermediary and fiduciary fund established under A.R.S. § 8-135.
- c. Upon license expiration or surrender, the licensee may make a written request for return of the bond. Within 120 days of receiving the request, the division must return any cash bond not subject to forfeiture.

**D. Entity Application.** The initial application form submitted by an entity must:

- 1. Designate a principal who:
  - a. Holds a valid, active fiduciary license that has never been revoked.
  - b. Complies with the license renewal requirements.
- 2. Be accompanied by:
  - a. A list of all licensed fiduciaries and trainees acting for or on behalf of the applicant; and
  - b. If the applicant is a business entity, the articles of incorporation and letters of good standing from the Arizona Corporation Commission or the Arizona Secretary of State, as applicable to the type of business entity.
  - c. A list of all persons with an ownership interest in the business entity.
  - d. If the applicant is a business entity, the bond required under (C).

### **Section 7-202.09: Exemptions**

**A. Licensing Exemptions.** Licensing is not required for:

- 1. Any person who serves, if court appointed, as a guardian, conservator, or personal representative for one or more persons for no fees or compensation, monetary or otherwise;
- 2. Any person who serves, if court appointed, as a personal representative, guardian or conservator if they are related to the decedent or incapacitated or protected person;
- 3. Any person who serves, if court appointed, as a personal representative who is nominated in a will or nominated by a power conferred in a will;
- 4. Any person who serves, if court appointed, as a personal representative who is a devisee in the will;

5. Any person appointed to serve as a guardian ad litem;
6. Any person serving as a foreign personal representative in an ancillary probate administration under A.R.S. § 14-4205;
7. Any person serving as a foreign conservator under A.R.S. §§ 14-5431 and 14-5432;
8. A financial institution as provided under A.R.S. § 14-5651(G);
9. Any person exempted by the supreme court for good cause under A.R.S. § 14-5651(G); or
10. An individual appointed by an order of the presiding judge of the superior court or designated judicial officer granting a temporary license exemption to allow the individual to serve as a fiduciary on a temporary basis while going through the licensing process.
  - a. Any person seeking court appointment as a conservator, guardian, or personal representative with a temporary license exemption must file an application for exemption on a prescribed form with the clerk of the superior court in the county where the appointment is requested.
  - b. The presiding judge of the superior court or designated judicial officer may grant the good cause exemption on the following conditions:
    - (1) On a finding that the applicant possesses the experience, education, and skills necessary to meet the needs of the ward, protected person, or decedent's estate.
    - (2) In making the good cause determination and the finding under (1), the presiding judge or designated judicial officer may consider:
      - (a) The nature of applicant's relationship with the ward, protected person, or deceased person.
      - (b) The type of decisions the fiduciary may make.
      - (c) The amount of assets the fiduciary must manage.
      - (d) Any limitations or conditions on the appointment.
      - (e) The estimated cost of the fiduciary and associated professional fees the applicant must charge.
      - (f) That the applicant is not acting as a fiduciary in any other case where they are not related to the ward or protected person by blood or marriage.
      - (g) That the applicant has known the ward, protected person, or deceased person for at least 2 years.
      - (h) That no prejudice or harm is likely to occur if the exemption is granted.
      - (i) That there is an emergency need for the exemption;
      - (j) That no relative is willing and able to serve.
      - (k) That no licensed fiduciary is willing and able to serve.
    - (3) The presiding judge or designated judicial officer may hold a hearing or request additional information in order to make the necessary findings.
    - (4) If the presiding judge or designated judicial officer enters an order granting an

exemption, the following restrictions apply:

- (a) Temporary appointment is effective for up to 90 days and may be extended once for up to another 90 days;
  - (b) If the appointee's application is not already pending, the appointee must file their fiduciary license application with the division; and
  - (c) The appointee must not receive any compensation in any form for serving as a fiduciary under a temporary license exemption. Reimbursement for reasonable expenses with court approval is not prohibited.
- (5) Within 15 days of granting a temporary license exemption, the presiding judge or designated judicial officer must forward a copy of the application for exemption and the appointment order granting the temporary licensing exemption to the division.

**B. Bond Exemption.** State and local governmental agencies and agency staff, including fiduciaries in the office of the public fiduciary and the Arizona Department of Veterans' Services, are not required to post the ACJA § 7-202.08(C) surety or cash bond.

#### **Section 7-202.10: Licensing Denial**

**A. Mandatory Denial.** In addition to the grounds for mandatory denial under ACJA § 7-201.12(A), under A.R.S. § 14-5651, the board must deny licensing if an individual applicant has been convicted of any felony.

**B. Discretionary Denial.** In addition to the grounds for discretionary denial under ACJA § 7-201.12(B), the board may deny licensing to an applicant:

- 1. If the applicant or an officer, director, partner, member, trustee, or manager of an entity applicant has been removed as a guardian, conservator, or personal representative for cause.
- 2. If an officer, director, partner, member, trustee, or manager of the applicant has been convicted of a felony.
- 3. If the board finds a trainee's conduct demonstrates a lack of competence, has been the source of injury or loss, or poses a danger to the public after an investigation under ACJA § 7-201.22(A)(5).

#### **Section 7-202.11: License Affiliation**

**A. Operation.** A licensed fiduciary must operate as one of the following:

- 1. Affiliated with a public fiduciary;
- 2. Affiliated with the Arizona Department of Veterans' Services or the United States

Department of Veterans Affairs;

3. Affiliated with a business entity;
4. Affiliated with another government entity; or
5. Independent of any affiliation.

**B. License Designation.** The fiduciary license must clearly state whether the licensee operates under one of the affiliations in (A)(1) through (A)(4) or independently.

### **Section 7-202.12: Licensed Entity; Designated Principal**

**A. Requirement.** For protection of the public, a licensed entity must ensure that it always has a designated principal who is a licensed fiduciary able and willing to serve. A designated principal is not considered unable to serve because of short-term absences such as absences for vacation or illness.

**B. Replacement.** If a licensed business entity, the Arizona Department of Veterans' Services, or county board of supervisors, in the case of the Office of the Public Fiduciary, receives notice or information that the designated principal is no longer willing or able to serve as the entity's designated principal, the entity must:

1. Within 14 days of receiving the notice or information, notify the division of the name of a replacement designated principal who is qualified to serve under ACJA § 7-202.08(D)(1); and
2. Within 30 days of receiving the notice or information, execute a principal designation form and file it with the division.

**C. Emergency License Suspension.**

1. An entity under (B) that has not filed a replacement principal designation form with the division 30 or more days after receiving notice or information that the designated principal is unwilling or unable to serve or that at any time is found to be operating without a designated principal in violation of this section, is subject to emergency license suspension under ACJA § 7-201.29 until such time as the entity is in compliance.
2. For purposes of ACJA § 7-201.29, an entity operating without a designated principal poses an imminent danger to the public.

**D. Responsibilities.** An entity's designated principal must:

1. Provide active and direct supervision of the other licensed fiduciaries, trainees, and support

staff who work with wards, protected persons, or decedent estates and who work for the entity;

2. Adopt policies and procedures giving reasonable assurance that:
  - a. The entity's licensed fiduciaries and trainees adhere to the rules, statutes, and provisions of this chapter applicable to fiduciaries; and
  - b. Non-licensed staff conduct themselves according to the applicable rules, statutes, and provisions of this chapter.
3. Assume personal professional responsibility for ensuring that the work performed by the licensed fiduciaries, professionals, support staff, and others who provide services for wards, protected persons, or decedent estates are within the scope of their training and experience and have been delegated by the principal.
4. Ensure that at least one licensed fiduciary will assume the primary responsibility for each court appointment of the entity as guardian, conservator, or personal representative.
5. On request, provide the division with a list of all licensed fiduciaries and trainees working for or representing the entity.

**D. Entity Representative.** In any proceeding under this chapter:

1. The designated principal may represent the entity.
2. If the proceeding involves the Department of Veterans' Services, the Department may be represented by the Department director or designated principal.

### **Section 7-202.13: Continuing Education**

**A. Purpose.**

1. Court appointed fiduciaries have important responsibilities in serving vulnerable and elderly clients. Fiduciaries are required to demonstrate a basic level of competency to become licensed to practice in Arizona. This section's continuing education requirement is one way to ensure a licensed fiduciary remains competent to practice and current on changes in the fiduciary and legal professions and the Arizona judicial system.
2. This section is intended to:
  - a. Ensure licensed fiduciary compliance with applicable rules, statutes, and this chapter.
  - b. Provide for the even-handed application and enforcement of the continuing education requirements.

- c. Ensure compliance with the A.R.S. § 14-5651(C)(5) training requirement.

## **B. Continuing Education Requirement.**

### 1. Licensed Fiduciaries.

- a. General requirement. Individual fiduciary licensees must complete at least 20 hours of qualified continuing education in the 2-year continuing education period between April 1 of each even-numbered year and March 31 of the next even-numbered year, as follows:
  - (1) The licensee must complete 10 qualified continuing education hours during each 12-month period between April 1 of each calendar year and March 31 of the next calendar year.
  - (2) At least 1.5 hours of each 10-hour annual requirement must be devoted to ethics with the remaining 8.5 hours devoted to other subjects.
- b. Initial licensing exception. The regular 2-year licensing period is from June 1 of each even-numbered year through May 31 of the next even-numbered year. The continuing education requirement for an individual fiduciary who is first licensed during the second year of the regular 2-year licensing period (i.e., between June 1 of an odd-numbered year and May 31 of the immediately following even-numbered year) is:
  - (1) A fiduciary initially licensed in the 6-month period between June 1 of an odd-numbered year and December 31 of the immediately following even-numbered year must complete a total of 10 hours of continuing education during that 6-month period with at least 1.5 hours devoted to ethics and the remaining 8.5 hours devoted to other subjects.
  - (2) A fiduciary initially licensed in the 3-month period between December 31 and March 31 of an even-numbered year must complete 5 hours of continuing education credit during that 3-month period with at least 1 hour devoted to ethics and the remaining 4 hours devoted to other subjects.
  - (3) Following renewal of the initial license, these licensees must comply with the general requirement under (B)(1)(a).
- c. Exception inapplicable. The exception in (B)(1)(b) does not apply to a fiduciary whose license lapsed but was later re-licensed during the 6-month period between June 1 of an odd-numbered year and December 31 of the immediately following even-numbered year. In that case, the licensee must complete the full 20-hour continuing education requirement with 3 hours devoted to ethics and the remaining 7 hours devoted to other subjects.

### 2. Trainees.

- a. Trainees must complete 10 hours of qualified continuing education during each 12-month period in which they are registered as trainees beginning with their date of registration.
  - b. Of the 10-hour annual requirement, at least 1.5 hours each year must be devoted to ethics with the remaining 8.5 hours devoted to other subjects.
3. Non-transferable. Continuing education hours completed in excess of the applicable requirement are not transferable to any period other than the one in which they were completed.
4. Eligible Time.
- a. The time in attendance at a qualified continuing education activity that may be counted to satisfy an individual licensee's or trainee's annual requirement is the "actual clock time."
  - b. "Actual clock time" is the total hours attended minus the time spent for introductory remarks, breaks, meals, and business meetings.
  - c. A qualified continuing education activity must include at least 30 minutes or 0.5 hours of "actual clock time."
  - d. After the initial 30 minutes of "actual clock time," credit may be earned in increments of at least 15 minutes or 0.25 hours.
  - e. A fiduciary must complete or attend the entire continuing education activity to receive any credit. There is no partial credit for attending less than all of a continuing education activity, except that a fiduciary may receive continuing education credit for courses offered by educational institutions if their attendance satisfies the institution's requirement for receiving course credit.

### **C. Compliance.**

1. Responsibility. Licensees and trainees are responsible for monitoring their own compliance with the continuing education requirement, including maintaining documentation of continuing education hours completed.
2. Documentation. Fiduciaries and trainees must obtain documentation about their continuing education activities from the sponsor of the activity, including documentation of:
  - a. The sponsor's name;
  - b. The name, date, and location of the activity;

- c. The licensee's or trainee's registration as an attendee;
  - d. The activity's subject matter and content, including materials provided to attendees;
  - e. The activity's program or schedule showing time allotted to introductory remarks, breaks, meals, and business meetings;
  - f. The licensee's or trainee's "actual clock time" for the activity and, if different from the "actual clock time," the number of credit hours awarded by the sponsoring entity for full attendance; and
  - g. An official document from the sponsor signifying the licensee's or trainee's completion of the activity including, for example, a certificate of completion or grade report.
3. Reporting.
- a. Licensee. A licensed fiduciary must affirm continuing education compliance when applying for license renewal.
  - b. Trainee. A trainee must affirm continuing education compliance at the time and in the manner directed by the division.
  - c. Format. The licensee's or trainee's affirmation of continuing education compliance must be in the format directed by the division and must either:
    - (1) Include the licensee's or trainee's signature in the space specifically provided on the form for this purpose; or
    - (2) The licensee or trainee may sign across the official document from the sponsor signifying the licensee's or trainee's completion of the activity under (C)(2)(g).
  - d. On request. A licensee or trainee must provide additional information about continuing education compliance as requested by the board or division, including documentation about continuing education compliance in a prior licensing period from:
    - (1) A former licensee applying for a new license after their previous license expired without renewal;
    - (2) A fiduciary seeking license reactivation from inactive status under ACJA § 7-201.17(C); or
    - (3) A fiduciary or former licensee seeking reinstatement after suspension or revocation.
4. Board review and decision.
- a. Findings. After reviewing continuing education documentation and any applicable additional information requested, the board may:

- (1) Find compliance with the continuing education requirement;
  - (2) Require additional information from the fiduciary seeking renewal before making a decision;
  - (3) Find partial compliance with the continuing education requirement and order remedial measures; or
  - (4) Enter a finding of non-compliance.
- b. Notice. Within 10 days of the board's decision, the division must give the fiduciary written notice of the board's decision and the reasons for the decision.
- c. Review and decision.
- (1) If the board finds full or partial non-compliance with the continuing education requirements:
    - (a) The fiduciary may submit a written request for board review in the manner required for requests under ACJA § 7-201.28(A)(2).
    - (b) A request for board review includes a request to address the board in response.
    - (c) By making a request to address the board, the fiduciary also agrees to respond to board questions under oath or affirmation at the board meeting.
    - (d) Upon receiving a timely request for review, the division must notify the board chair of the need to place the matter on the board's agenda.
  - (2) There is no review of a request for additional information.
  - (3) Upon submission of a timely request for review, the fiduciary's existing license does not expire during board review if the board decision concerns compliance with the license renewal requirements.
  - (4) After hearing from the fiduciary and reviewing its decision, the board must issue a written, final decision.

#### **D. Qualified Continuing Education.**

1. Required subjects.
  - a. General areas. Continuing education activity must:
    - (1) Address the areas of proficiency, competency, and performance of a fiduciary;
    - (2) Convey knowledge and increase understanding of the fiduciary profession, the Arizona judiciary, or the legal process; and
    - (3) Increase awareness of the fiduciary's responsibilities and the fiduciary's impact on the judicial process and the public.
  - b. Subjects. Continuing education activity must include one or more of the following subjects:
    - (1) Guardianships;
    - (2) Conservatorships;

- (3) Personal representatives;
- (4) Trust administration;
- (5) Powers of attorney;
- (6) Mental health;
- (7) The Arizona court system, including the state and federal constitutions, the separate branches of government, Arizona court jurisdiction, the role of judges, and the Arizona tribal court system;
- (8) The Arizona Revised Statutes, Arizona Rules of Court, this chapter, case law, administrative orders, and current issues in the Arizona court system relevant to the fiduciary profession;
- (9) The role and responsibilities of the fiduciary, including as specified in this chapter;
- (10) Management issues, including office practices, public relations, customer service, accounting, time management, human resources, financial planning, and stress management; and
- (11) Ethics for fiduciaries, including cooperation with lawyers, judges, and other fiduciaries; professional attire; courtesy; impartiality to all litigants; information vs. legal advice; and public relations.

## 2. Qualified activities.

- a. Activities offered by qualified entities. Programs, seminars, and courses of study approved by the division or provided by the following entities are qualified continuing education activities if they comply with the other requirements of this section:
  - (1) Fiduciary Certification Program (FCP);
  - (2) The National Guardianship Association (NGA);
  - (3) Arizona Fiduciaries Association (AFA);
  - (4) National Association of Court Management (NACM);
  - (5) State Bar of Arizona, Probate Law and Trust Section;
  - (6) State Bar of Arizona, Mental Health and Elder Law Section;
  - (7) National Academy of Elder Law Attorneys (NAELA);
  - (8) National Association of Geriatric Care Managers (NAGCM);
  - (9) National College of Probate Judges; and
  - (10) National Association of Social Workers (NASW).
- b. Conferences. A fiduciary may satisfy all of a current year's continuing education requirement by attending a conference sponsored by an entity listed in (E)(1) if the requirements of this section are satisfied, including the subject matter, "actual clock time," ethics, and documentation requirements.
- c. Educational institutions. A fiduciary may receive no more than 50% of the total number of required continuing education credit hours in a 2-year period by achieving a passing grade in a course provided by a university, college, or other accredited educational institution. A passing grade is a "C" or better or a grade of "pass" in a pass/fail system. Credit is awarded by multiplying the number of credit hours earned

by 2.

- d. Authoring or coauthoring articles. A fiduciary may receive up to 1 hour of continuing education credit in every 2-year continuing education period for authoring or coauthoring an article of at least 1,000 words on the fiduciary profession published in a state or nationally recognized professional journal about the fiduciary profession or the law. A fiduciary may only receive credit for one publication of an article.
- e. Self-study. A fiduciary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. A fiduciary may receive no more than 50% of the total number of required continuing education credit hours in a 2-year period through self-study. The remaining hours must be earned through “live training” involving instruction by one or more faculty or facilitators to an individual or a group using real-time interaction.
- f. Teaching.
  - (1) A fiduciary may receive up to 10 hours of continuing education credit in each 2-year continuing education period for serving as an instructor, speaker, faculty, or panel member in a continuing education activity about the fiduciary profession as follows:
    - (a) The fiduciary is allowed credit for the actual presentation time; and
    - (b) The fiduciary may also receive up to 2 hours of actual preparation time for each hour of original presentation time.
  - (2) For subsequent presentations, a fiduciary:
    - (a) Is not allowed any credit for subsequent presentations of the same program during the same 2-year continuing education period.
    - (b) May receive continuing education credit for actual presentation time for duplicate programs presented in a different 2-year continuing education period but will not receive continuing education credit for preparation time for those duplicate programs.

**E. Non-Qualifying Activities.** The following activities do not qualify for continuing education credit:

1. Activities completed to qualify for initial licensing.
2. Activities primarily focused on teaching nonverbal skills not directly associated with the fiduciary profession.
3. Attending or participating in professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation.
4. Serving as a member of a committee or council of, or as an officer in, a professional organization.

5. Activities required by the board as part of disciplinary action.
6. Activities ordered by a judicial officer.
7. Serving as a mentor or supervisor.
8. Repeating a qualified activity within the same 2-year continuing education period unless an exception is granted by the board and only if the activity directly involves the fiduciary profession and duplicating the activity will enhance the fiduciary's knowledge, skill, and competency.

**F. Extension or Waiver.** A fiduciary seeking license renewal who has not fully complied with the continuing education requirement may request an extension or waiver of the requirement under this section instead of ACJA § 7-201.07(B).

1. A fiduciary seeking an extension or waiver of all or part of the continuing education requirement must file a written request for an extension or waiver with the division no later than March 31 of the 12-month continuing education period for which the extension or waiver is sought.
2. A written request for an extension of time to comply with the continuing education requirement or a waiver of the requirement for the 12-month continuing education period must:
  - a. Include a detailed explanation of the facts supporting a finding of the extenuating circumstances that negatively impact the fiduciary's ability to fully comply with the continuing education requirements for that period;
  - b. Be signed and dated by the fiduciary; and
  - c. Include, immediately above the fiduciary's signature, the following statement: "I, [printed name of fiduciary], affirm that my statements and the information in my request for extension or waiver are true and correct and given under penalty of perjury."
3. The division must review the written request and make a recommendation to the board.
4. If the board finds the fiduciary has demonstrated extenuating circumstances, the board may, as it finds appropriate under the circumstances:
  - a. Grant a one-time extension of up to 90 days for the fiduciary to complete the continuing education requirement; or
  - b. Waive all or part of the continuing education requirement for the 12-month continuing education period under specified terms and conditions.

5. In determining whether extenuating circumstances exist to support a requested extension or waiver of the continuing education requirement, the board must consider whether the fiduciary has been unable to devote sufficient hours to fulfill the continuing education requirement because of:
  - a. Full-time service in the armed forces of the United States during a substantial part of the licensing period;
  - b. An incapacitating illness as documented by a statement from a currently licensed physician treating the fiduciary;
  - c. A physical inability to access qualified activities as documented by a statement from a currently licensed physician treating the fiduciary;
  - d. The fiduciary's retirement from the fiduciary profession and the fiduciary is no longer performing any fiduciary services; or
  - e. Any other special circumstances the board deems appropriate.
6. A fiduciary whose license is under restriction, probation, suspension, or has been revoked by the board is not eligible to request a waiver or extension.

**G. Random Compliance Audits.** The division may randomly select at least 10 percent of individual fiduciary renewal applications to audit compliance with the continuing education requirement. A licensee's failure to respond to, or refusal to comply with, a continuing education compliance audit-related request from the board or division may result in denial of renewal or disciplinary action.

**H. Failure to Comply.** A fiduciary who fails to complete the continuing education requirement, fails to complete any portion of the continuing education requirement by the deadline, falsifies documents, or misrepresents attendance may result in denial of license renewal and disciplinary action and sanctions under ACJA § 7-201.30, including assessment of the delinquent continuing education fee under ACJA § 7-202.28(C)(7).

#### **Section 7-202.14: License Renewal**

**A. Authority.** Fiduciary license renewal is governed by ACJA § 7-201.19 and this section.

**B. Timing.**

1. Expiration date. Fiduciary licenses expire at midnight on May 31 of each even-numbered

year.

2. **Timely filing.** By timely filing a complete license renewal application, the licensee's existing license does not expire during the renewal process. A fiduciary licensee's renewal application is timely if filed with the division from April 1 through April 30 of each even-numbered year or, if the licensee receives a one-time extension under ACJA § 7-201.07(B), by the extended deadline.

**C. Renewal Application.** In addition to completing the renewal application form specified by the division, the following requirements apply to fiduciary license renewal applications.

1. **Late fee.** The late fee under ACJA § 7-202.33(K) must be paid:
  - a. When a licensee files an untimely renewal application under ACJA § 7-201.19(C).
  - b. When a licensee files a renewal application after their license expires.
2. **Continuing Education.** A licensed fiduciary must affirm continuing education compliance under ACJA § 7-202.13(C)(3) when applying for license renewal.
3. **Business entities.** A business entity's license renewal application must include a letter of good standing from either the Arizona Corporation Commission or the Arizona Secretary of State as determined by the type of business entity.

**D. Renewal Decision.**

1. The grounds for granting or denying fiduciary license renewal are as stated in ACJA §§ 7-201.09, 7-201.12, 7-202.05, and 7-202.10 for granting or denying an initial license.
2. Additional grounds for denial of license renewal are:
  - a. If a court issued an order or sanction, including issuing civil or fiduciary arrest warrants, against the fiduciary on a finding of contempt or breach of fiduciary duty regarding the administration of a guardianship, conservatorship, or estate; or
  - b. If a court has found the fiduciary engaged in vexatious conduct.

**Section 7-202.15: Notice Requirements**

**A. Required Entity-Related Notifications.**

1. The principal of a business entity, the office of the public fiduciary, and the Arizona Department of Veterans' Services must include a list of all licensed fiduciaries associated with the entity with their renewal application and at any time in response to a request from

the division.

2. If the status of fiduciary changes from being affiliated with a business entity, a public fiduciary office, or the Arizona Department of Veterans' Services, the fiduciary must notify the division within 30 days of the change. If the fiduciary is no longer affiliated with the office of the public fiduciary or the Arizona Department of Veterans' Services, the fiduciary loses the bonding exemption under ACJA § 7-202.09(B) and must comply with the ACJA § 7-202.08(C) bond requirement before acting as a fiduciary.
3. A licensed entity must notify the division within 30 days after a licensed fiduciary leaves the entity's employment.

#### **B. Required Notice to Ward or Protected Person.**

1. A fiduciary must inform a ward, protected person, and persons entitled to receive notice:
  - a. If the fiduciary is also an attorney admitted to the practice of law in Arizona and an active member of the State Bar of Arizona, that the fiduciary is not acting as a lawyer for the ward or protected person, cannot give legal advice, and communications with the fiduciary are not privileged communications. The fiduciary who is an attorney may only provide non-fiduciary, legal services to the ward or protected person under the circumstances specified in ACJA 7-202.19(C)(2).
  - b. If the fiduciary is not an attorney, that the fiduciary is not a lawyer, cannot give legal advice, and communications with the fiduciary are not privileged communications.
2. Upon appointment as a guardian or conservator, a fiduciary must provide the following written information to the ward or protected person and all those entitled to notice under A.R.S. §§ 14-5309 and 14-5405:

*[Insert name of Appointed Fiduciary]* holds active Fiduciary License No. *[insert license number]*, issued by the Arizona Supreme Court, and is subject to regulation by the Arizona Supreme Court, Administrative Office of the Courts, Certification and Licensing Division. Licensed fiduciaries, whether individuals or entities, are governed by the Arizona Code of Judicial Administration (ACJA) §§ 7-201.01 through 7-201.40 and §§ 7-202.01 through 7-202.28. These provisions have been adopted by the Arizona Supreme Court and include a code of conduct and other provisions that all licensed fiduciaries are required to follow. Additional information about licensed fiduciaries and their requirements may be obtained from the Administrative Office of the Courts at:

<http://www.azcourts.gov>  
Email to [PFP@courts.az.gov](mailto:PFP@courts.az.gov)

Phone: (602) 452-3378

**C. Events Triggering Notice to the Division.**

1. A fiduciary must report the following events to the division within 30 days of their occurrence:
  - a. The fiduciary's bankruptcy, tax lien, final foreclosure, or civil judgment.
  - b. The fiduciary's removal by a court for cause unless:
    - (1) The fiduciary was removed after a party petitioned to substitute the fiduciary; and
    - (2) The court did not find that the fiduciary acted inappropriately.
  - c. A court order finding the fiduciary in contempt or in breach of fiduciary duty and any resulting orders or sanctions issued to the fiduciary.
  - d. A court order finding that the fiduciary engaged in vexatious conduct under Rule 10(G), Arizona Rules of Probate Procedure.
  - e. A court order issued under A.R.S. § 14-1105 finding that a decedent's estate or trust has incurred professional fees or expenses due to the fiduciary's unreasonable conduct and requiring the fiduciary to reimburse the decedent's estate, a trust, ward, or protected person for some or all fees or expenses.
  - f. The fiduciary crediting the account of a decedent's estate, a trust, ward, or protected person as required to comply with a court-ordered reimbursement under (e).
  - g. A felony conviction.
2. The fiduciary must also provide the division with copies of all relevant documents when giving notice of an event under (1).

**Section 7-202.16: Fiduciary Code of Conduct**

**A. Applicability.** The Fiduciary Code of Conduct is the minimum standard of performance for licensed fiduciaries adopted by the supreme court.

1. A fiduciary must comply with this section in addition to ACJA § 7-201.20.
2. Violation of the Fiduciary Code of Conduct is grounds for discipline under ACJA § 7-201.21(A)(2), (A)(3), and (B)(14).

**B. General Standards.**

1. Compliance. A fiduciary must abide by this section and the other requirements imposed on fiduciaries under this chapter.
2. License number. A fiduciary must include their individual license number, and the license number of any applicable business entity, on any document filed with the superior court.
3. Power. A fiduciary must comply with the court order appointing them, including any limitations, and must exercise only the powers granted in the appointment order.
4. Rights of ward or protected person. A fiduciary must:
  - a. Make decisions in a manner that respects and does not violate the person's civil, constitutional, and personal rights.
  - b. Advocate for preservation and protection of the person's civil, constitutional, and personal rights that have not been removed by the court.
  - c. Support the person in exercising any personal, civil, and constitutional rights that have not been removed.
  - d. Promptly apply to the court for instruction if the fiduciary believes the exercise of a person's civil, constitutional, and personal rights would result in substantial harm to the person or the person's estate.
5. Support staff and other professionals. A fiduciary or designated principal may employ or contract for the services of support staff and other professionals to perform office functions and assist the fiduciary in providing client services.
  - a. A fiduciary or designated principal must provide active and direct supervision of support staff and other professionals.
  - b. Support staff and other professionals may gather information from clients, provide information to the fiduciary about clients, and make recommendations to the fiduciary based on their knowledge and experience.
6. Knowledge. In addition to complying with the ACJA § 7-202.36 continuing education requirements:
  - a. A fiduciary must ensure that they understand what the law currently requires and expects of them in whatever role they are serving.
  - b. A fiduciary must become educated about the nature of a ward or protected person's disability, functional abilities, mental condition, or physical condition.
7. Special skill. If a fiduciary is appointed because they have specialized skills, the fiduciary is under a duty to use those skills.

8. Reporting violations.
  - a. If a fiduciary has knowledge that another licensed fiduciary has committed misconduct raising a substantial question as to the fiduciary's honesty, trustworthiness, or qualifications as a licensed fiduciary, the fiduciary must notify the division by promptly filing a complaint under ACJA § 7-201.22(A).
  - b. If a fiduciary has knowledge that another fiduciary has committed a violation of law that has or likely will cause significant harm to a ward or protected person, the fiduciary must report the matter to the court that appointed the fiduciary suspected of the violation.
9. Cooperation. The fiduciary must give full cooperation and assistance to any lawful request for information by:
  - a. The court that appointed the fiduciary;
  - b. A state or federal government authority investigating the fiduciary's actions;
  - c. The division; and
  - d. The board.
10. Confidential information. A fiduciary must maintain confidentiality in managing the affairs of a ward, protected person, or estate unless disclosure of information is necessary.
  - a. Disclosure must be limited to what is necessary and relevant.
  - b. When disclosure is necessary, a fiduciary must respect the person's privacy and dignity.
  - c. A fiduciary may refuse to disclose sensitive information if disclosure would be detrimental to the person's well-being or would subject the person's estate to undue risk.

**C. Additional Standards.** In addition to the standards of conduct in this section, the Fiduciary Code of Conduct includes the following standards governing:

1. A fiduciary's relationship to the court under ACJA § 7-202.17;
2. Decision-making under ACJA § 7-202.18;
3. Conflict of interest, including providing non-fiduciary services, under ACJA § 7-202.19;
4. Guardianship of the person under ACJA § 7-202.20;

5. Medical decisions under ACJA § 7-202.21;
6. Managing the estate of a protected person under ACJA § 7-202.22;
7. Authorized services under ACJA § 7-201.23;
8. Prohibited conduct under ACJA § 7-202.24;
9. Fiduciary compensation under ACJA § 7-202.25; and
10. Resignation or termination under ACJA § 7-202.26.

### **Section 7-202.17: Relationship to Court**

**A. Applicable Law.** A fiduciary must perform all duties and discharge all obligations in accordance with current Arizona and federal law.

**B. Court Orders.**

1. The fiduciary must not act outside of the authority granted by the court, must seek direction from the court as necessary, and must seek court authorization for actions that are subject to court approval.
2. If a fiduciary has questions about the meaning of a court's order or directions, a fiduciary must seek clarification from the court before taking action to comply with the order or directions.
3. If the fiduciary is aware of a court order that may conflict with this article, the fiduciary must advise the court about the possible conflict and seek the court's direction.

**C. Information to the Court.** A fiduciary must:

1. Under the Arizona Rules of Probate Procedure, inform the court of a permanent change in the location or the death of a ward or protected person.
2. Ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, and consistent with applicable law.
3. Not knowingly file any document with the court or present testimony to the court that is misleading, inaccurate, false, or that contains misstatements, misrepresentations, or omissions of material facts.
4. Not knowingly interfere with the transmission of a request to the court, including from:

- a. A ward for an order that the ward is no longer incapacitated;
- b. A protected person for an order that the protected person is no longer in need of protection; or
- c. A ward or protected person for substitution of the fiduciary.

**D. Vexatious Conduct.** If a court finds a licensed fiduciary has engaged in repetitive filings or vexatious conduct under Rule 35, Arizona Rules of Probate Procedure, the fiduciary must comply with the order imposing sanctions, including that the fiduciary must obtain the court's permission to file future pleadings and other papers.

### **Section 7-202.18: Decision-Making**

**A. Degree of Care.** A fiduciary must exercise extreme care and diligence when making decisions for a ward or protected person.

**B. Authority.** A fiduciary must not make decisions in areas outside the scope of the court's guardianship, conservatorship, or personal representative order.

**C. Informed Consent.** A fiduciary must ensure that they have full disclosure of the facts needed to make an uncoerced, intelligent decision on behalf of a ward or protected person and that they make decisions based on the principle of informed consent.

**D. Decision-Making Standard.**

1. Ward's preference.

- a. A fiduciary must identify and advocate for the ward's or protected person's needs and preferences.
- b. A fiduciary must make all reasonable efforts to determine the person's past and current preferences about all decisions the fiduciary is empowered to make by:
  - (1) Asking the person their preference;
  - (2) If the person has difficulty expressing their preference, taking reasonable steps to help the person express their preference; and
  - (3) If the person is unable to express their preference, even with assistance, seeking input from others close to the person to determine what the person would want.

2. Best interest.

- a. A best-interest decision is the least intrusive, most normalizing, and least restrictive

- action possible to provide for the person's needs.
- b. A fiduciary must make decisions the fiduciary reasonably believes are in the person's best interest if:
    - (1) The person's preferences cannot be determined; or
    - (2) The fiduciary is reasonably certain that the person's determined preference will result in substantial harm to the person.
  - c. In making a best-interest decision, the fiduciary must consider:
    - (1) Information from professionals with an interest in the person's welfare;
    - (2) Information the fiduciary believes the person would have considered if they were able; and
    - (3) Other factors a reasonable person in the person's circumstances would consider, including the impact on others.
3. Least restrictive alternative.
- a. In considering the available alternatives, a fiduciary must choose one that best meets the person's needs and preferences while placing the least restrictions on the person's freedom and rights.
  - b. The fiduciary must weigh the risk and benefits of available alternatives and balance between maximizing the person's independence and self-determination and maintaining the person's dignity, protection, and safety.
  - c. A fiduciary must make individualized decisions for each ward or protected person about least restrictive alternatives.
4. Expertise. A fiduciary must maintain an awareness of the limitations of their own expertise; carefully consider the views and professional opinions of those involved in the treatment, care, and management of the ward, protected person, or estate; and must seek independent professional opinions when necessary.
5. Responsibility. Subject to orders of the court, the fiduciary alone is ultimately responsible for decisions made on behalf of the ward, protected person, or estate, but the fiduciary's decisions are open to the scrutiny of interested parties and subject to criticism and challenge. Accordingly, the fiduciary must maintain accurate and complete records to support the decisions made.

### **Section 7-202.19: Conflict of Interest**

**A. Duty.** A fiduciary owes a duty of trust, undivided loyalty, and fidelity to a ward, protected

person, or estate.

1. A guardian is a fiduciary who must provide for the care, comfort, and maintenance of a ward or protected person and their personal effects and, if appropriate, encourage the ward to develop maximum self-reliance and independence.
2. A conservator is a fiduciary who must manage and protect the monetary interests of a ward, protected person, or estate and observe the standard of care owed by a trustee.
3. A personal representative is a fiduciary under a duty to settle and distribute the estate of a decedent according to law and must observe the standard of care owed by a trustee.

## **B. Conflict of Interest.**

1. Consistent with a fiduciary's duties of trust, undivided loyalty, and fidelity, a fiduciary must avoid conflict of interest and impropriety or the appearance of conflict of interest or impropriety. A conflict of interest or impropriety may arise in various situations, including those in which:
  - a. A fiduciary has a personal or professional interest other individuals may perceive as self-serving, self-dealing, or adverse to the position or best interest of the ward, protected person, or estate, including when a fiduciary provides non-fiduciary services.
  - b. A fiduciary has dual or multiple relationships with a ward, protected person, or estate that conflict with each other.
  - c. A fiduciary's duty to a ward, protected person, or estate conflicts with the fiduciary's duty to another ward, protected person, or estate.
2. A fiduciary must maintain independence from all service providers to ensure the fiduciary's ability to act in the best interests of the ward, protected person, or estate, including in coordinating services, addressing inappropriate or poorly delivered services, and challenging inappropriate charges or billing practices in the best interests of the ward or protected person.
3. The fiduciary must maintain a professional relationship with the ward or protected person and must avoid personal relationships with the ward, protected person, or the family or friends of the ward or protected person unless the fiduciary is a family member or the personal relationship existed before the appointment of the fiduciary.
4. A fiduciary must vigorously protect the rights of the ward or protected person against infringement by third parties.
5. A fiduciary must, whenever possible, provide all pertinent information to the ward or protected person unless the fiduciary is reasonably certain substantial harm will result from providing this information.

### C. Non-Fiduciary Services.

1. General prohibition. Consistent with a fiduciary's duty of undivided loyalty owed to a ward, protected person, or estate and to avoid self-dealing, conflict of interest, impropriety, or their appearance, a fiduciary must not provide non-fiduciary services to a ward, protected person, or estate for compensation if the fiduciary has a financial interest in providing the non-fiduciary services unless authorized by the court under this section. A fiduciary has a financial interest in providing non-fiduciary services, including when:
  - a. The fiduciary provides non-fiduciary services to a ward, protected person, or estate for compensation.
  - b. The fiduciary, or a person closely related to the fiduciary, has a personal or financial interest in providing the non-fiduciary services. A person "closely related" to the fiduciary means:
    - (1) An individual who is the fiduciary's spouse, child, parent, sibling, grandparent, aunt, uncle, or cousin; and
    - (2) An entity that the fiduciary, or an individual closely related to the fiduciary, has a financial interest in, is employed by, or receives compensation or financial benefit from.
  - c. The fiduciary hires a person closely related to the fiduciary, as defined in (b), to provide non-fiduciary services, including legal services, to the fiduciary if the cost of the non-fiduciary services are directly or indirectly billed to the ward or protected person.
2. Extraordinary circumstances. Upon a written request by a fiduciary establishing the existence of extraordinary circumstances, a court may exercise its discretion to issue an order authorizing a fiduciary to provide non-fiduciary services otherwise prohibited under (C)(1).
  - a. A fiduciary must file the written request and obtain court approval before providing non-fiduciary services. The failure to do so may result in disallowance of charges for the non-fiduciary services, removal, or discipline under this chapter.
  - b. The fiduciary's written request for court approval must demonstrate the existence of extraordinary circumstances. Extraordinary circumstances may exist if no reasonable or practical alternative for providing the non-fiduciary services has been identified.
  - c. The fiduciary's written request should address the following factors relevant to the court's decision to grant or deny the request.
    - (1) The financial impact on the ward, protected person, or estate if the request is granted;
    - (2) The financial impact on the fiduciary or a person closely related to the fiduciary if

the request is granted;

- (3) Whether the fiduciary's role in providing both fiduciary and non-fiduciary services would constitute a relationship likely to harm the interests of the ward, protected person, or estate;
- (4) Whether the risk of harm to the interests of the ward, protected person, or estate outweighs the need for the fiduciary to perform non-fiduciary services under the circumstances;
- (5) Whether the fiduciary failed to disclose their financial interests related to the fiduciary role and any related benefits to the court before appointment;
- (6) Whether the conflict created by performing the proposed non-fiduciary services is insubstantial;
- (7) Whether it serves the ward's, protected person's, or estate's best interests for the fiduciary to perform the specified non-fiduciary services; and
- (8) Whether the proposed compensation for performing the non-fiduciary services is reasonable and necessary, considering the best interest of the ward or protected person, under the factors listed in A.R. S. § 14-5109(C).

d. If the court grants the request:

- (1) The fiduciary's billing for the authorized non-fiduciary services performed must be separated from the billing for fiduciary services;
- (2) The non-fiduciary services and fees must be reasonable; and
- (3) Even with advance approval to provide non-fiduciary services, the services and fees are subject to court approval under ACJA § 7-202.25(D).

3. Emergency exception. Prior court approval is not required in an emergency situation where it is immediately necessary for the fiduciary to provide non-fiduciary services to protect the best interests of the ward or protected person on the condition that the fiduciary must, within 2 calendar days, file a written request for court approval:

- a. Containing the information required under (C)(2)(b) demonstrating the existence of extraordinary circumstances;
- b. Including the fiduciary's written explanation and documentation of the emergency circumstances requiring the fiduciary to provide non-fiduciary services before requesting or obtaining court approval; and
- c. Informing the court and the parties entitled to notice about the circumstances constituting the emergency and the full nature and extent of services provided by the fiduciary.

#### **D. Disclosure.**

1. Upon becoming aware of an actual or perceived conflict of interest, a fiduciary must immediately file a notice with the court disclosing the existence and nature of the conflict

to the court and the parties entitled to notice.

2. If the fiduciary is serving as a trustee for a trust that is not supervised by the court, the fiduciary must immediately, upon becoming aware of an actual or perceived conflict of interest, provide written disclosure of the actual or perceived conflict of interest to all qualified beneficiaries.

### **Section 7-202.20: Guardian of Person**

**A. Upon Appointment.** Once appointed guardian, the fiduciary must:

1. Address the ward's immediate issues.
2. Meet with the ward as soon as possible and assess the ward's physical and social situation; their goals, needs, and preferences; and their available support systems.
3. Gather information about the ward, including:
  - a. Evaluation of the ward's physical condition, functional status, and treatment from their treating physician and any specialists;
  - b. A psychological evaluation, if appropriate; and
  - c. Advance directives, including living wills, organ donation statements, and powers of attorney.
4. Establish contact with the conservator and any other fiduciary for the ward.
5. Determine whether the ward's finances are in line with their needs.
6. Develop and implement a written guardianship plan.
7. Review the statutes, rules, and regulations applicable to guardians and must stay current on changes to these provisions.

**B. Duties.**

1. Subject to the terms of the court's appointment order, the fiduciary acting as a guardian is entitled to legal custody of the ward's person and must:
  - a. Make provision for the care, comfort, and maintenance of the ward; and

- b. Take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects.
- 2. The fiduciary or the fiduciary's qualified representative must, absent good cause, visit and assess the ward at least quarterly and as often as is necessary to ensure the ward's well-being. For this purpose, a "qualified representative" means an individual who is a licensed fiduciary.
- 3. A fiduciary acting as a guardian must submit written reports to the court as required under A.R.S. § 14-5315.
- 4. If the only available placement, treatment, care, or services are not the most appropriate and least restrictive, the fiduciary must advocate for the rights of the ward, negotiate a more desirable placement or more desirable form of treatment, care, or services and must retain legal counsel to assist if necessary.

**C. Ward's Care, Comfort, and Maintenance.** The fiduciary, as guardian, is responsible for providing informed consent on behalf of the ward for the ward's care, treatment, and services.

- 1. General. The fiduciary must ensure that the ward's care, treatment, and services represent the least restrictive form of intervention available.
- 2. Living arrangements.
  - a. The fiduciary must become informed about the options and alternatives available for the ward's residence.
  - b. The fiduciary must see that the ward is living in the most appropriate, least restrictive setting consistent with the ward's needs, capabilities, and financial ability.
  - c. In making decisions about the ward's living arrangements under the ACJA § 7-202.18(D) decision-making standard, the fiduciary must:
    - (1) As between residential settings, give priority to home or community settings.
    - (2) Not remove the ward or protected person from their home or separate them from family and friends unless removal or separation is necessary to prevent substantial harm or because of financial constraints.
    - (3) Give priority to a setting that meets the ward's or protected person's needs in the least restrictive manner.
    - (4) Seek professional evaluations and assessments whenever necessary to determine if the current or proposed placement of the ward or protected person represents the least restrictive environment.
    - (5) Give priority to a setting that allows the ward or protected person to continue important social relationships.
    - (6) Prioritize a setting without unnecessary restrictions.

- (7) Work cooperatively with available community-based organizations to assist in ensuring the ward or protected person resides in a non-institutional environment.
- (8) Monitor the placement of the ward or protected person to ensure the continued appropriateness of the placement.
- (9) Consent to changes as they become necessary or advantageous for the ward.

3. Care, treatment, and services.

- a. The fiduciary must make decisions about the ward's care, treatment, and services under the ACJA § 7-202.18(D) decision-making standard.
- b. The fiduciary must seek professional evaluations and assessments whenever necessary to determine whether the current or proposed care, treatment, and services represent the least restrictive form of intervention available.
- c. The fiduciary must work cooperatively with available individuals and organizations to ensure that the ward receives care, treatment, and services representing the least restrictive form of intervention available and that are consistent with the wishes or best interests of the ward.
- d. The fiduciary must regularly monitor the care, treatment, and services the ward or protected person is receiving to ensure their continued appropriateness and must consent to changes as they become necessary for or advantageous to the ward or protected person.

4. Changes of circumstances. A fiduciary must:

- a. Be alert to changes in the ward's or protected person's condition or circumstances and report to the court when an increase or reduction in the authority of the fiduciary should be considered;
- b. Develop information to provide a basis for termination or limitation of the guardianship or conservatorship;
- c. When termination or limitation of the guardianship or conservatorship is warranted, promptly request court action;
- d. Assist the ward or protected person in terminating or limiting the guardianship or conservatorship when indicated; and
- e. Retain independent legal counsel for the ward or protected person as necessary.

**D. Ward's Personal Effects.** The fiduciary must secure the ward's personal property, insure it, and protect it from damage, destruction, or loss.

## **E. Conservator Appointment.**

1. Without conservator. If no conservator has been appointed for the ward's estate, the guardian fiduciary must:
  - a. Initiate proceedings to compel any person under a duty to support the ward or to pay for the ward's welfare to perform their duty; and
  - b. Receive money and tangible property on the ward's behalf and apply it for the ward's support, care, and education on the following conditions:
    - (1) The guardian may not use funds from the ward's estate for room and board furnished by the guardian or the guardian's spouse, parent or child unless the charge is approved by the court after notice to at least one of the ward's next of kin, if notice is possible.
    - (2) The guardian must exercise care to conserve any excess for the ward's needs.
2. With conservator. If a conservator has been appointed, the guardian must:
  - a. Pay to the conservator, for the conservator's management, all of the ward's estate received by the guardian that is in excess of the funds expended to meet the ward's current expenses for support, care, and education; and
  - b. The guardian must account to the conservator for the funds expended and not paid to the conservator.

## **Section 7-202.21: Medical Decisions**

### **A. Regular Medical Care.** A fiduciary must:

1. Monitor the ward's health and well-being;
2. Ensure that the ward receives all medical benefits to which the ward may be entitled; and
3. Take reasonable steps to ensure that the ward's medical care is appropriately provided.

### **B. Extraordinary Procedures.** A fiduciary must not consent to a ward receiving the following extraordinary medical procedures without prior authorization from the superior court:

1. Abortion;
2. Sterilization;
3. Organ transplants;

4. Psycho surgery;
5. Electro-convulsive therapy;
6. A treatment prohibited by the ward's religious beliefs; or
7. Other treatments or interventions the court must approve under state law.

**C. Emergency Care.**

1. A fiduciary must be available to respond to an urgent need for medical decisions.
2. A fiduciary must instruct medical providers about the ward's treatment or non-treatment and must:
  - a. Be familiar with the ward's prior execution of any health care documents, including a health care power of attorney, living will, organ donation statement, or other advance directive or statement of the ward's intent and wishes about medical intervention.
  - b. Know and follow state law on withholding or withdrawal of life-sustaining treatment.

**D. Decision-Making Process.** A guardian authorized to make health care decisions for a ward must make those decisions under the ACJA § 7-202.18(D) decision-making standard. In making a decision, the fiduciary must:

1. Maximize the ward's participation to the extent possible;
2. Speak directly to the treating or attending physician before authorizing or denying any medical treatment;
3. Make sure the fiduciary clearly understands the medical facts;
4. Make sure the fiduciary clearly understands the risks and benefits of the treatment options;
5. Support the ward in understanding the facts, risks, and benefits of the options and support the ward's ability to direct a decision; and
6. Obtain a second opinion for any treatment or intervention that poses a significant risk to the ward or when a reasonable person would do so.

**Section 7-202.22: Managing Estate of Protected Person**

**A. Application.** This section applies to a licensed fiduciary acting as a guardian, conservator,

personal representative, trustee, or agent under a power of attorney, with or without court appointment, who manages the estate of a protected person.

**B. Standard.**

1. Under A.R.S. § 14-5417, a fiduciary appointed as a conservator, or as a guardian if no conservator is appointed, must observe the standard of care applicable to trustees under A.R.S. §§ 14-10804 and 14-10806:
  - a. The fiduciary must manage the estate as a prudent person would. The duty of prudence requires exercising reasonable care, skill, and caution.
  - b. A fiduciary with special skills or expertise must use their special skills or expertise.
2. Under A.R.S. § 14-3703, except as provided in the will of a decedent, a fiduciary serving as a personal representative must comply with:
  - a. The standard of care applicable to trustees under A.R.S. §§ 14-10804 and 14-10806 as stated in (1); and
  - b. The duties of accounting applicable to trustees under A.R.S. § 14-10813(C) to report on the trust property, liabilities, receipts, disbursements, the source and amount of trustee compensation, a list of trust assets and, if possible, their market values. The accounting must be made:
    - (1) At least annually and at the termination of a trust; and
    - (2) To those who may receive distribution of trust income or principal and any other beneficiary who requests an accounting.

**C. Upon Appointment.** Upon appointment, the fiduciary must:

1. Address issues requiring immediate action, including marshaling, securing, and protecting estate assets;
2. Meet with the protected person as soon as possible.
3. Gather information, including:
  - a. The protected person's prior and current goals, needs, and preferences;
  - b. The nature and extent of the person's assets, income, and liabilities;
  - c. Whether the person has relied on others for support in managing their finances; and
  - d. About the nature of any incapacity, condition, and functional capabilities of the

protected person.

4. Review the statutes, rules, and regulations applicable to guardians and stay current on changes to these provisions.

#### **D. Duties.**

1. General. Subject to the terms of the court's appointment order, the fiduciary must:
  - a. Manage, control, inventory, and monitor the protected person's assets, income, and liabilities.
  - b. Obtain all public benefits and insurance benefits for which the person is or may become eligible.
  - c. Keep complete and accurate records and be able to fully account for all estate assets, income, and expenditures.
  - d. Photograph and maintain accurate record of all real and personal property.
  - e. Employ prudent and accepted accounting procedures.
  - f. Manage the estate only for the benefit of the protected person and act in their best interest.
  - g. Make decisions in good faith and that are most beneficial to the estate.
  - h. Prioritize the needs and preferences of the protected person—including, in appropriate cases, the needs of their dependents—over preserving the estate for subsequent beneficiaries.
  - i. Have no self-interest in the management of the estate and avoid even the appearance of self-interest.
  - j. Manage risks but not necessarily eliminate them.
  - k. Develop a financial plan and budget for managing resources and expenses that reasonably corresponds with the protected person's care plan and preferences.
  - l. Exercise prudence when investing the estate's surplus funds.
  - m. Ensure that all fees and expenses, including fiduciary compensation, are reasonable and necessary for the administration of the estate:
    - (1) Avoid in engaging in excessive or unproductive activities.

- (2) Weigh the financial cost of any action against the benefit reasonably expected to the estate.
  - (3) Consider market rates for goods and services.
- n. Secure the estate's real and personal property, insure it, and protect it from damage, destruction, dissipation, exploitation, or loss.
  - o. Not co-mingle any property or assets with those of other estates, clients, or the fiduciary's own property or assets.
  - p. Obtain the assistance of other professionals with needed expertise when prudent.
  - q. Communicate regularly and coordinate efforts with any appointed guardian of the person.
  - r. Provide those entitled to notice with timely access to and copies of financial records as required under A.R.S. § 14-5418(C).
2. Personal Representative. In addition to the duties under (1), a fiduciary acting as personal representative:
- a. Must settle and distribute the estate of the decedent efficiently, timely, and in the best interests of the estate and, if appropriate, in accordance with the terms of any probated and effective will.
  - b. On appointment, must review the laws, court rules, and regulations governing management of a decedent's estate and must stay current on changes to these provisions.
  - c. Prepare complete, accurate, and understandable court documents, including petitions for determination of heirs, inventories, accounts, and closing statements.
3. Changes of Circumstances. A fiduciary must:
- a. Be alert to changes in the ward's or protected person's condition or circumstances and report to the court when an increase or reduction in the authority of the fiduciary should be considered;
  - b. Develop information to provide a basis for termination or limitation of the guardianship or conservatorship;
  - c. When termination or limitation of the guardianship or conservatorship is warranted, promptly request court action;
  - d. Assist the ward or protected person in terminating or limiting the guardianship or conservatorship when indicated; and

- e. Retain independent legal counsel for the ward or protected person as necessary.

### **Section 7-202.23: Authorized Services**

**A. Limited Practice of Law.** Under Rule 31.3(e)(3), the supreme court authorizes licensed fiduciaries to engage in the limited practice of law, without attorney supervision, by performing authorized services in compliance with this article.

**B. Preparation and Filing of Documents.** Unless otherwise ordered by the court, a licensed fiduciary acting individually or on behalf of a licensed fiduciary entity is authorized to prepare the following documents and file them with the court:

1. Court investigation reports, if the fiduciary has been appointed as a court investigator, including by appointment under A.R.S. §§ 14-5303(C), 14-5407(B), or 36-540(G);
2. Probate information forms under Rule 13(b), Arizona Rules of Probate Procedure;
3. Amended probate information forms, notices of change of information, and notices of the death of a ward or protected person under the Arizona Rules of Probate Procedure;
4. A written notice of the basis of compensation the fiduciary intends to charge the estate of a ward or protected person under A.R.S. § 14-5109.
5. Petitions or requests for fees or compensation under Rule 33, Arizona Rules of Probate Procedure;
6. Annual guardian reports under A.R.S. § 14-5315 and Rule 30, Arizona Rules of Probate Procedure;
7. Conservator's inventory under A.R.S. § 14-5418 and Rule 45, Arizona Rules Probate Procedure;
8. The protected person's consumer credit report filed with the conservator's inventory-under A.R.S. § 14-5418(A);
9. Conservator's budget and amendments under Rule 45(d), Arizona Rules of Probate Procedure;
10. Petition for approval of conservator intermediate or final account, including required notices, or verified statement under A.R.S. § 14-5419 and Rule 45, Arizona Rules of Probate Procedure, but not the preparation and filing of documents in a probate proceeding that becomes contested with the filing of an objection to the petition under Rule 15, Arizona Rules of Probate Procedure;

11. Proof of restricted account, under Rule 36(b)(2), Arizona Rules of Probate Procedure;
12. Notices to creditors;
13. Status reports;
14. Reports to the court of abuse, neglect, or exploitation of a vulnerable adult under A.R.S. § 46-454, et seq.;
15. A copy of the recorded letters of the conservator’s appointment under Rule 39, Arizona Rules of Probate Procedure;
16. Proofs of publication, notice, or mailings associated with the above filings; and
17. Bond filing under Rule 36(a)(3), Arizona Rules of Probate Procedure.

**C. General Information.** A licensed fiduciary may provide general information to a ward, protected person, and persons entitled to notice about the legal rights, procedures, or options available to them in a legal matter on the condition that the fiduciary not provide any legal advice, opinion, or recommendation.

**D. Court Hearings.** A licensed fiduciary may attend court hearings, including the initial hearing for appointment of a guardian, or hearing at which the fiduciary may be requested to provide testimony or the appearance of the fiduciary is necessary to further the ward’s, protected person’s, or estate’s best interests.

#### **Section 7-202.24: Prohibited Conduct**

**A. Unauthorized Practice of Law.** Under Rule 31.1(a)(1), a licensed fiduciary—who is not also an active member in good standing of the State Bar of Arizona under Rule 32—must not practice law, except as authorized under Rule 31.3(e)(3). Under Rule 31(b), the “practice of law” means providing legal advice or services by:

1. Preparing or expressing legal opinions to or for another person;
2. Representing a person in a judicial, quasi-judicial, administrative proceeding, or other formal dispute resolution process such as arbitration or mediation;
3. Preparing a document, in any medium, on behalf of a specific person for filing in any court, administrative agency, or tribunal;
4. Negotiating legal rights or responsibilities on behalf of a specific person; or

5. Preparing a document, in any medium, intended to affect or secure a specific person's legal rights.

**B. Misrepresenting Status.** A licensed fiduciary must not represent that the fiduciary is authorized to practice law in this state or to provide legal services other than those authorized under ACJA § 7-202.23 and Rule 31.3(e)(3).

**C. Suspension of Authority.** The court may suspend a licensed fiduciary's authority to perform services in compliance with this article without attorney supervision if the court determines under Rule 31.3(e)(3) that lay representation by the fiduciary is interfering with the orderly progress of the proceedings or imposing undue burdens on other parties.

**D. Designations.**

1. A fiduciary must not use the designations "lawyer," "attorney at law," "counselor at law," "law office," "JD," "Esq.," or any other words reasonably likely to induce others to believe the fiduciary is authorized to engage in the practice of law in Arizona unless the fiduciary is an active member in good standing of the State Bar of Arizona.

2. A fiduciary must not use or operate under a business name unless the business is a licensed entity under this article.

**E. Document Preparation.** A licensed fiduciary must not prepare powers of attorney or legal documents other than those listed in ACJA § 7-202.23(B) unless the fiduciary is also a licensed legal document preparer under Article 7 of this chapter and is authorized by the court under ACJA § 7-202.19(C)(2) to provide additional, non-fiduciary document preparation services. This prohibition does not apply to the Arizona Department of Veteran's Services acting under A.R.S. § 41-603(A).

**F. Trainees.** A fiduciary must not permit or authorize trainees, support staff, or other contracted professionals to provide informed consents or enter into any contractual agreements regarding a ward or protected persons.

**Section 7-202.25: Fiduciary Compensation**

**A. Reasonable Compensation.**

1. A fiduciary is entitled to reasonable compensation for their services.

2. Fees must be related only to fiduciary services, unless the court approves fees for non-fiduciary services under ACJA § 7-202.19(C).

**B. Disclosure.** The fiduciary must disclose:

1. The basis for their fees, including any rate schedule, to the court during the appointment process;
2. Fee changes; and
3. A projection of annual fees when the fiduciary develops or amends a guardianship plan under ACJA § 7-202.20(A)(6) or a financial plan under ACJA § 7-202.22(D)(1)(k).

**C. Reasonableness.** In determining whether a fee is reasonable, a fiduciary should consider factors including.

1. The fiduciary's duties and responsibilities under the court appointment;
2. The necessity and quality of the services;
3. Whether the basis for the fee has been disclosed before the service was provided;
4. Whether the amount of the fee is supported by the case budget and the duty to conserve the ward or protected person's estate;
5. The fiduciary's experience, professional standing, training, and skills;
6. The character of the work, including its difficulty, the degree of skill and care required, the work's importance, the time involved, and the level of responsibility undertaken by the fiduciary;
7. The conditions or circumstances under which a service was performed, including emergency matters requiring urgent attention, services provided outside of regular business hours, potential danger (e.g., hazardous materials, contaminated real property, or dangerous persons), or other extraordinary conditions;
8. The attention and skill level required for each task, including whether a different provider could render the service at a lower cost;
9. The benefit of the services to the ward or protected person;
10. The fees customarily paid for like services in the community; and
11. Extent to which the services provided were consistent with the guardian's or conservator's plan.

**D. Court Approval.**

1. All fees charged to a ward, protected person, or estate by a court-appointed fiduciary must

be reviewed and approved by the court **except as provided by law**.

- a. A fiduciary's request for approval of fees must be made in a petition under Rule 33(c) or (d), Arizona Rules of Probate Procedure.
  - b. Rule 33(g), Arizona Rules of Probate Procedure, requires the court to determine the reasonableness of the requested compensation under the statewide fee guidelines in ACJA § 3-303.
2. A fiduciary must seek the court's advance authorization for any proposed fee-generating activity not covered in the appointment order.

### **Section 7-202.26: Resignation or Termination**

#### **A. Authority Terminates.**

1. Under Arizona law, including A.R.S. §§ 14-5210, 14-5212, 14-5306, and 14-5307, a court-appointed fiduciary's authority as a guardian or conservator terminates on:
  - a. The fiduciary's death, determination of the fiduciary's incapacity, or the fiduciary's resignation, substitution, or removal;
  - b. The death of the ward or protected person;
  - c. If the ward is a minor, on the adoption or marriage of the ward or when the ward reaches the age of 18; or
  - d. When the court orders that the need for protection no longer exists.
2. When a fiduciary's authority terminates, the fiduciary must promptly transfer the ward's or protected person's assets and records as ordered by the court.

#### **B. Termination By Appointing Court.** Under Rule 40(b), Arizona Rules of Probate Procedure, before a fiduciary resigns or petitions the court to terminate their responsibilities, "the fiduciary must comply with statutory requirements for withdrawal, including the filing of final reports and accounts."

1. Guardian. A fiduciary may petition the court for permission to resign as guardian under A.R.S. § 14-5212(A).
  - a. A petition to resign must include a request for appointment of a successor guardian if the guardianship is not also being terminated.
  - b. Under A.R.S. § 14-5210, a guardian's resignation does not terminate a guardian's obligation to account for the ward's monies and assets.
  - c. If the court approves resignation, the fiduciary must submit the A.R.S. § 14-5315

annual report to the court and submit any other reports required by the court's order.

2. Conservator.

a. Under A.R.S. § 14-5415(A), a court that appointed a fiduciary as a conservator may:

- (1) Find that substituting the conservator and appointing a successor is in the best interest of the protected person; or
- (2) The conservator may petition to resign.

b. Under A.R.S. § 14-5415(E), before substituting a conservator or accepting a conservator's resignation, the court may:

- (1) Require filing appropriate accounts;
- (2) Enter orders to preserve and protect the assets of the estate;
- (3) Require reimbursement or payment as needed; and
- (4) Require the transfer of assets or title to assets to successors.

3. The resignation or substitution of a fiduciary does not terminate the guardianship or conservatorship until a court order to that effect.

**C. Involuntary Termination.** For purposes of this section, a fiduciary license is involuntarily terminated if it is surrendered under a consent agreement to resolve a complaint or compliance audit in lieu of disciplinary action or to resolve a pending disciplinary matter, revoked, or suspended.

1. Upon the involuntary termination of a fiduciary's license, the division must notify the superior court in each county of the action taken and the fiduciary's disqualification from current and future court appointments.

a. In the case of a license suspension, the notice must include the dates of the fiduciary's suspension.

b. Consistent with Rule 48(d), Arizona Rules of Probate Procedure, the notice must:

- (1) Advise the superior court of the unprofessional conduct or violations warranting the action taken; and
- (2) Request an order immediately suspending or terminating the guardian's or conservator's authority to take any further action on behalf of a ward, protected person, or estate and appointing a successor or temporary guardian or conservator.

2. Upon the involuntary termination of a fiduciary's license, the former licensee must not act as a fiduciary except as provided in ACJA § 7-209.09(A)(1)-(7).

a. This does not prohibit a fiduciary whose license has been involuntarily terminated from complying with court orders to provide an accounting, the delivery of property and

records to the successor or temporary guardian or conservator, and the execution of all instruments required for transfer of estate property.

- b. Unless otherwise ordered by the court, a fiduciary whose license has been involuntarily terminated is not required to file final reports and accounts before the involuntary termination is effective.

**D. Request to Appoint Conservator of Fiduciary Records.** In appropriate cases and under ACJA § 7-201.04(D)(11), the board may authorize the filing of a petition with the presiding probate judge of a superior court for emergency appointment of one or more eligible persons to act as conservators of a fiduciary's client files and records:

1. On the death or incapacity of a licensed fiduciary;
2. If the fiduciary's license has been suspended or revoked; or
3. When necessary to protect the public.

#### **Section 7-202.27: Discipline**

**A. Sanctions.** Complaints against and discipline of licensed fiduciaries are as stated in ACJA §§ 7.201.23 through 7.201.39. Under ACJA § 7-201.30(A)(2)(c)(8), the board's order of discipline may include:

1. Forfeiture of the licensee's cash or surety bond under ACJA § 7-202.08(C)(2)(a).
2. A civil penalty under A.R.S. § 14-5651(D).
  - a. The civil penalty must not exceed \$500 for each failure or violation and must not exceed a total of \$15,000.
  - b. The civil penalty is payable to the supreme court for remission to the state treasurer for deposit in the general fund.

**B. Suspension or Revocation.**

1. Authority.
  - a. In addition to ACJA § 7-201.30(A)(2)(c), A.R.S. § 14-5651(D) authorizes the revocation of a fiduciary's license among other sanctions.
  - b. Under A.R.S. § 14-5651(D), the board must notify the superior court in each county when a fiduciary's license is revoked.
  - c. The board must also notify the superior court in each county when a fiduciary's license

is suspended.

2. Effect of Suspension or Revocation.

a. A person whose fiduciary license has been suspended or revoked must not serve:

(1) As an agent under a power of attorney in any capacity unless the person is related to the principal by blood, adoption, or marriage;

(2) As a trustee in any capacity unless the person is related to the beneficiary by blood, adoption, or marriage; or

(3) As a guardian, conservator, or personal representative unless exempt from licensing under ACJA § 7-202.09(A)(1)-(4).

b. The prohibition in (a) does not apply if the person's license has been reinstated and is in good standing.

c. A person whose fiduciary license has been revoked or involuntarily terminated is prohibited from having any ownership interest in or control of a licensed entity and must not serve as the designated principal of a licensed entity.

**C. Reinstatement After Suspension or Revocation.** Reinstatement after license suspension or revocation is governed by ACJA § 7-201.18. Under that section, the person seeking reinstatement must also satisfy this article's requirements for reinstatement:

1. Payment of the reinstatement application fee under ACJA § 7-202.28(D)(4).

2. If the applicant for reinstatement's license was revoked or was suspended but not reinstated after completing the suspension, the applicant must submit a full set of fingerprints.

3. If the applicant for reinstatement's license was suspended, they must establish compliance with the continuing education and license renewal requirements during the suspension period.

4. If the applicant for reinstatement's license was revoked, the applicant must satisfy the number of continuing education hours, if any, that the board specifies as a condition of their reinstatement.

### **Section 7-202.28: Fee Schedule**

#### **A. Initial Licensing Fees.**

1. Individual Licensing – private

a. License expiring <b>more</b> than 1 year after application date	\$700.00
b. License expiring <b>less</b> than 1 year after application date	\$350.00
c. Fingerprint application processing fee (Rate set by Arizona law and subject to change)	
d. Trainee Registration Fee:	\$100.00
2. Individual Licensing – public	
a. License expiring <b>more</b> than 1 year after application date	\$400.00
b. License expiring <b>less</b> than 1 year after application date	\$200.00
c. Fingerprint application processing fee (Rate set by Arizona law and subject to change)	
d. Trainee Registration Fee:	\$100.00
3. Business Licensing – private	
a. License expiring <b>more</b> than 1 year after application date	\$700.00
b. License expiring <b>less</b> than 1 year after application date	\$350.00
4. Business Licensing – public	
a. License expiring <b>more</b> than 1 year after application date	\$400.00
b. License expiring <b>less</b> than 1 year after application date	\$200.00
<b>B. Examination Fees.</b>	
1. Applicants for initial licensing	\$100.00
2. Reexaminations	\$100.00
(For any applicant who did not pass the examination on the first attempt, the \$100.00 fee applies to each reexamination.)	
3. Reregistration for Examination	\$100.00
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)	
4. The fee for Online Exam Administration – Remote Proctoring is set by	

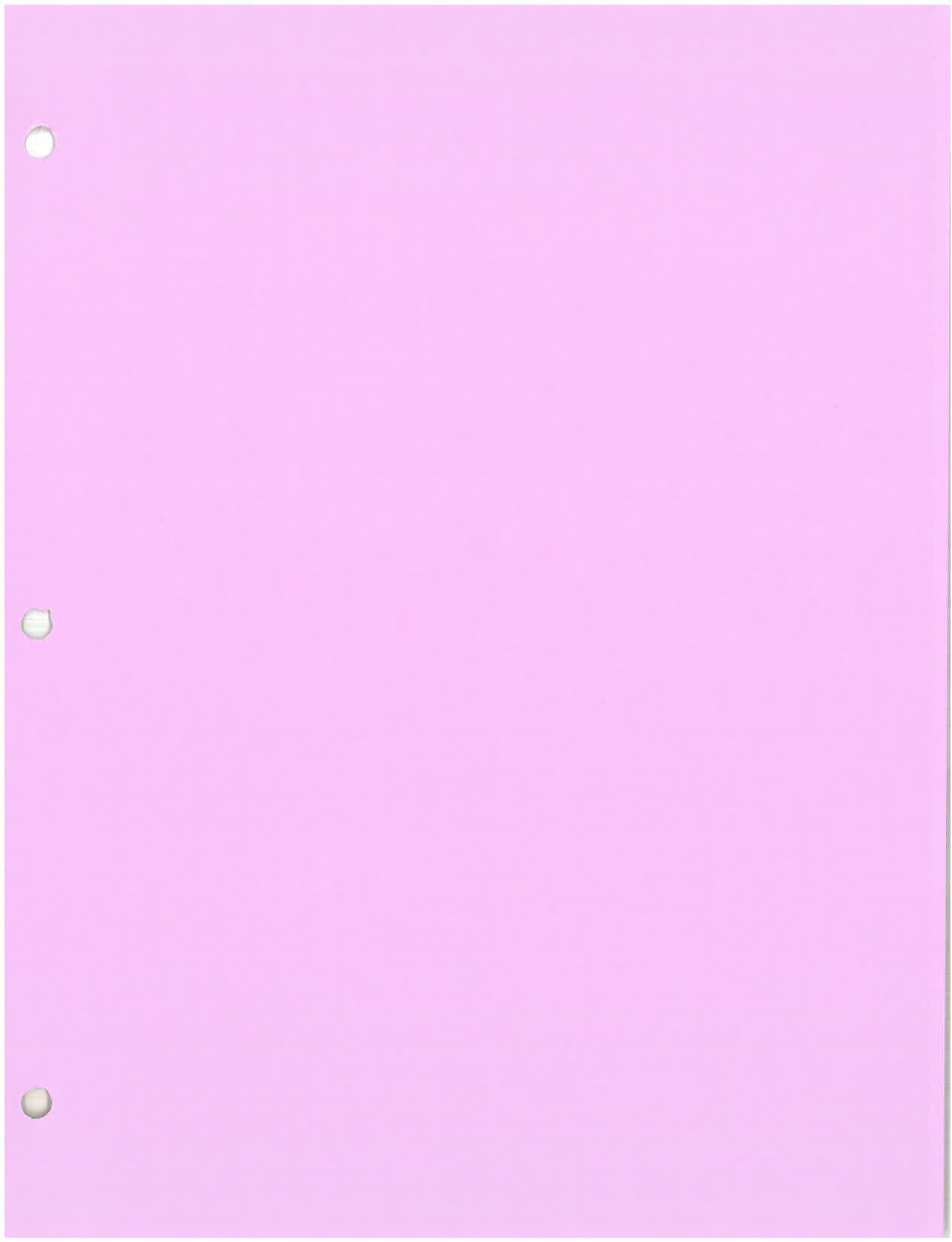
the Administrative Director.

**C. License Fees.** Fiduciary licensees must pay one-half of the appropriate Biennial Renewal Fee each year between April 1 and April 30 (Annual Renewal Fee). Annual Renewal Fee payments made between May 1 and May 31 must include the following Late Renewal Fee. A licensee failing to pay the Annual Renewal Fee by May 31 is subject to disciplinary action.

1. Biennial Individual Renewal (Private)	\$600.00
2. Biennial Business Renewal (Private)	\$600.00
3. Biennial Individual Renewal (Public)	\$400.00
4. Biennial Business Renewal (Public)	\$400.00
5. Inactive Status	\$200.00
6. Late Renewal	\$100.00
7. Delinquent Continuing Education	\$100.00

**D. Miscellaneous Fees.**

1. Replacement of License	\$ 50.00
2. Name Change	\$ 50.00
3. Public Record Request (per page for hard copies)	\$ 0.50
4. Certificate of Correctness of Copy of Record	\$ 18.00
5. Reinstatement Application (Application for license reinstatement after license suspension or revocation)	\$100.00



**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

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**Date Action Requested:**

June 19, 2026

**Type of Action Requested:**

Formal Action/Request  
 Information Only  
 Other

**Subject:**

ACJA § 7-203:  
Confidential  
Intermediary

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**FROM:**

Certification and Licensing Division  
Abby Raddatz - Division Director  
Kristina Tuba - Defensive Driving, Committees & Operations Manager

**DISCUSSION:**

Changes to ACJA 7-203 Confidential Intermediary. This is mostly restyling and only 2 substantive proposals. One would change the qualifications for the 3 members of the Confidential Intermediary Board who are certified confidential intermediaries. The current requirement that these members have been confidential intermediaries for 5 years is reduced to 3 years to expand the pool of qualified board members. The other is to require that the Board meet at least once per year.

**RECOMMENDED COUNCIL ACTION:**

Approve suggested changes.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 7: Administrative Office of the Courts**  
**Chapter 2: Certification and Licensing Programs**  
~~Section 7-203~~ **Article 3: Confidential Intermediary**  
**Section 7-203: Scope**

Together with Article 1, this Article 3 governs the application, certification, and renewal process; the complaint and disciplinary process; and the administrative hearing process for confidential intermediaries. Under ACJA § 7-201, the provisions of Article 1 govern the confidential intermediary and sibling information exchange programs unless this article provides to the contrary, in which case the provisions of this article govern.

**Section 7-203.01: Definitions**

~~A. Definitions.~~ In addition to the definitions in the Arizona Code of Judicial Administration (ACJA) § 7-201.01, this section, unless otherwise specified, the following definitions apply to this article governing confidential intermediaries:

“Adoptee” means an individual, eligible for adoption under A.R.S. §§ 8-102 and 14-8101, who has been adopted.

“Adoption triad” means the adoptee, the adoptive parents, and the birth parents.

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

“Child” means ~~“any person an individual under eighteen years of age 18”~~ “any person an individual under eighteen years of age 18” as provided in ~~under~~ A.R.S. § 8-101(4).

“Client” means a qualified individual.

“Confidential intermediary” means an individual who ~~completes~~ meets and maintains the requirements for certification as provided in under ACJA § 7-201, this chapter and A.R.S. § 8-134, and this section and who possesses a valid confidential intermediary certificate issued by the supreme court, and is authorized to serve as a post-adoption liaison and access confidential information necessary to facilitate contact between adoption triad members under A.R.S. § 8-134 and between siblings separated by a dependency action under A.R.S. § 8-543.

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

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

“~~Qualified Individual~~ qualified individual” means ~~a person an individual~~ an individual listed in A.R.S. § 8-134(A) as

eligible to use the services of a confidential intermediary under A.R.S. § 8-134(A) listed with the court or a person eligible under A.R.S. § 8-543(B) to participate in the sibling information exchange program under A.R.S. § 8-543(B).

“Search” means the process in which a confidential intermediary, on the request of a qualified individual when initiated by a qualified individual and ordered by a court, in which a confidential intermediary reviews may inspect records including court, department of child safety, agency, and public or other authorized maternity home records about an adoption to locate information regarding an about an individual who is the subject of the search adoptee, birth parent, adoptive parent, birth sibling of an adoptee, or sibling of a former dependent child.

“Sibling” means “a person includes individuals who shares share a common biological parent, stepparent, or adoptive parent” as provided in under A.R.S. § 8-543(F).

“Sibling Information Exchange Program (SIX)” means the program authorized under A.R.S. § 8-543, and administered by the supreme court, to provide former dependent children the ability to locate, and stay in touch with, siblings separated by a dependency action with the assistance of a confidential intermediary.

### Section 7-203.02: Jurisdiction

**BA. Applicability Authority.** ~~This section governs the confidential intermediary and sibling information exchange programs and applies to every confidential intermediary in the state. This section is read together with the provisions of ACJA § 7-201, but if there is a conflict between ACJA § 7-201 and this section, the provisions of this section govern. This section is also read together with the confidential intermediary provisions in A.R.S. §§ 8-134 and 8-543, including the following:~~

1. Confidential intermediary program. ~~Under A.R.S. § 8-134(H), the supreme court administers an individual must not act as a the confidential intermediary program and adopts the rules and procedures for implementing the program, including those establishing confidential intermediary qualifications; required fees; minimum standards for certification, training, and conduct; and the amounts that a confidential intermediary may charge unless the individual possesses a confidential intermediary certificate issued by the supreme court.~~
2. Sibling information exchange program.
  - a. Under A.R.S. § 8-543(CA), a person participating in the supreme court’s administrative office of the courts establishes the sibling information exchange program must use a confidential intermediary.
  - b. Under A.R.S. § 8-543(E), the supreme court adopts the rules necessary for the program’s implementation.

**CB. Purpose.** ~~This section, together Together with ACJA § 7-201(C) Article 1, this section is~~

intended to provide for the certification of confidential intermediaries and the effective administration of the confidential intermediary and sibling information exchange programs.

### Section 7-203.03: Administration

DA. Administration—Supreme Court. The supreme court administers the confidential intermediary program through its administrative office of the courts, certification and licensing division.

B. Fund. The division must deposit all fees collected in administering the confidential intermediary program and the sibling information exchange program in the confidential intermediary and fiduciary fund established under A.R.S. § 8-135(A).

1. Role and Responsibilities of the Supreme Court.

a. Under A.R.S. § 8-134(I), the supreme court administers the confidential intermediary program, adopts 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.

2. Role and Responsibilities of the Administrative Office of the Courts.

a. Under 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).

### Section 7-203.04: Confidential Intermediary Board

A. Duties. The confidential intermediary board exercises the authority and has the duties stated in ACJA § 7-201.04(D) and whenever board action is required under this chapter.

3B. Confidential Intermediary Board Composition. Under ACJA § 7-201(D)(5), the The confidential intermediary board is established, consisting of has 7 members, as follows:

(a)1. Three certified confidential intermediaries who have been confidential intermediaries for no less than at least 5-3 years;

- ~~(b)~~2. One superior court judicial officer or trial court administrator;
- ~~(e)~~3. One attorney, with ~~no less than~~ at least 5 years of experience in adoption law, or ~~one~~ 1 adoption agency-related representative;
- ~~(d)~~4. One public member; and
- ~~(e)~~5. One additional member appointed by the chief justice ~~of the supreme court~~.

**4C. Meetings.** The board must hold regular meetings at least once each year, ~~meets as needed to carry out its responsibilities.~~

~~5. Fund.~~ The division ~~must deposit all collected fees in the confidential intermediary and fiduciary fund established by A.R.S. § 8-135(A).~~

### **Section 7-203.05: Initial Certification**

#### **A. Certification.**

- 1. Requirement. Individuals must be certified by the supreme court to act as confidential intermediaries authorized to conduct adoption triad member searches under A.R.S. § 8-134 and to assist siblings separated by a dependency action under A.R.S. § 8-543.
- 2. Exemption. Under A.R.S. § 8-134(B), the department of child safety and adoption agencies licensed by the state may serve as confidential intermediaries without certification by the supreme court.

#### **EB. Initial Certification Requirements.**

- 1. ~~Application for Initial Certification.~~ Personal qualifications. ~~In addition to the A candidate for confidential intermediary certification must satisfy the personal qualification requirements of under ACJA § 7-201(E) 7-201.09(B), an applicant must meet the following requirements:~~
- 2. Application. Candidates for confidential intermediary certification must file a completed application in compliance with ACJA § 7-201.10(B)(1)-(5), including:
  - a. Payment of the application fee specified in ACJA § 7-203.10(A)(1);
  - b. Submission of the required photograph under ACJA § 7-201.10(B)(3); and
  - c. Compliance with the fingerprint requirement, and payment of the applicable fee for obtaining the applicant's criminal history records, under ACJA §§ 7-201.10(B)(3) and 7-203.10(A)(2).

~~a. Fingerprinting. Under A.R.S. § 8-134(K), the supreme court must require an applicant to furnish fingerprints and must obtain criminal history record information on each applicant for certification.~~

~~b3. Initial Training. Applicants for initial certification must request and complete an initial training that includes a live training component.~~

~~a. The division must make initial training for confidential intermediary applicants available within one at least once each year of a request.~~

~~b. The training must include information or instruction in the areas of:~~

~~(1) the The Sibling Information Exchange (SIX) program;~~

~~(2) the The confidential intermediary search process;~~

~~(3) ethics Ethics;~~

~~(4) The initial certification application for and renewal of certification process;~~

~~(5) the The process for complaints complaint, and their investigation, the and disciplinary process processes; and~~

~~(6) accessing Accessing court and agency records. All applicants for initial certification must complete the entire initial training, including a live training component.~~

~~e. Fees. An applicant 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 must meet the following minimum qualifications and be:~~

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

~~b. A citizen of the United States or legal resident; and~~

~~e. In compliance with all application requirements for initial certification under ACJA § 7-201 and subsection (E).~~

~~34. Examination. An applicant must pass an In addition to the requirements of ACJA § 7-201(E), the division must administer an examination administered by the division in conjunction with the live training component as part of the initial training.~~

~~4C. Board Decision Regarding Certification. Certification decisions are The process for the board's consideration of applications and for granting or denying initial certification is governed by ACJA § 7-201.13(E).~~

~~5. Exemption from Certification. No certification is required of any agency licensed by the state under A.R.S. § 8-126(1) or the Arizona Department of Economic Security.~~

## **Section 7-203.06: Continuing Education**

### **A. Purpose.**

1. This section's continuing education requirement is one way to ensure a confidential intermediary maintains competence to provide services post-certification—and remains current on changes in the profession and the Arizona judicial system.
2. This section is intended to:
  - a. Ensure compliance with applicable rules, statutes, and this chapter; and
  - b. Provide for even-handed application and enforcement of the continuing education requirements.

### **B. Continuing Education Requirement. A certified confidential intermediary must comply with the continuing education requirement to obtain renewal of their certification.**

1. General requirement. A certified confidential intermediary must complete at least 12 hours of qualified continuing education during the 2-year continuing education period between September 1 of each even-numbered year and August 31 of the next even-numbered year, as follows:
  - a. Half of the total hours required must be earned in each year of the 2-year certification period. A certified confidential intermediary must complete 6 qualified continuing education hours during each 12-month period between September 1 of each calendar year and August 31 of the next calendar year.
  - b. At least 1 hour of the 6 hours earned each year must be in ethics.
2. Non-transferable.
  - a. Continuing education hours may only be applied to satisfy the 6-hour requirement for the 12-month period in which hours were earned.
  - b. Excess continuing education hours completed in a 12-month period are not transferable to any other 12-month period.
3. Special rules during initial certification period.
  - a. Pre-certification hours. During a confidential intermediary's initial certification period, they may use qualified continuing education hours earned before their initial certification to satisfy the continuing education requirement if all the following apply:

- (1) The confidential intermediary was initially certified between September 1 of an even numbered-year and August 31 of the following odd-numbered year;
  - (2) The continuing education hours completed before initial certification were completed between September 1 of an even numbered-year and August 31 of the following odd-numbered year;
  - (3) The continuing education hours completed before initial certification would qualify as continuing education hours if completed after certification; and
  - (4) The confidential intermediary's initial certification does not follow a prior certification that lapsed without renewal.
- b. Modification: initial year of certification. The continuing education requirement for the initial certification period of a confidential intermediary who was initially certified after September 1 of an odd-numbered year is adjusted under the following circumstances:
- (1) A confidential intermediary initially certified during the 7-month period between September 1 of an odd-numbered year and March 31 of the immediately following even-numbered year must complete a total of 6 hours of continuing education during that 7-month period, including at least 1 hour of ethics.
  - (2) A confidential intermediary initially certified in the 5-month period between April 1 and August 31 of an even-numbered year must complete 3 hours of continuing education during that 5-month period, including at least 1 hour of ethics.
- c. Following renewal of initial certification, the confidential intermediary must comply with the general requirement under (B)(1).

### C. Compliance.

1. Responsibility. Confidential intermediaries are responsible for monitoring their own compliance with the continuing education requirements, including maintaining documentation of continuing education hours completed during each 12-month period.
2. Documentation. Confidential intermediaries must obtain documentation about their continuing education activities from the sponsor of the program, including documentation of:
  - a. The sponsor's name;
  - b. The name, date, and location of the program;
  - c. The confidential intermediary's registration as an attendee;
  - d. The program's subject matter and content, including materials provided to attendees;
  - e. The program's agenda or schedule showing time allotted to introductory remarks, breaks, meals, and business meetings;

- f. The confidential intermediary's "actual clock time" for the activity and, if different from the "actual clock time," the number of credit hours awarded by the sponsoring entity for full attendance; and
- g. The signature of the sponsor or an official document issued by the sponsor signifying the confidential intermediary's completion of the program.

### 3. Reporting.

- a. With renewal application. When applying for certification renewal, a confidential intermediary must affirm continuing education compliance for the ending certification period using the format directed by the division.
- b. On request, a confidential intermediary must provide additional information about continuing education compliance as requested by the board or division in connection with a renewal application or continuing education documentation, including documentation about continuing education compliance in a prior licensing period.

### 4. Review and decision.

- a. Findings. After reviewing continuing education documentation and any applicable additional information requested, the board may:
  - (1) Find compliance with the continuing education requirement;
  - (2) Require additional information from the confidential intermediary seeking renewal before making a decision;
  - (3) Find partial compliance with the continuing education requirement and order remedial measures; or
  - (4) Enter a finding of non-compliance.
- b. Notice. Within 10 days of the board's decision, the division must give the confidential intermediary written notice of the board's decision and the reasons for the decision.

#### c. Review and decision.

- (1) If the board finds full or partial non-compliance with the continuing education requirements:
  - (a) Within 15 days after the date of written notice of the board's decision, the confidential intermediary may submit a written request for board review in the manner required for requests under ACJA § 7-201.28(A)(2).
  - (b) A request for board review includes a request to address the board in response.
  - (c) By making a request to address the board, the confidential intermediary also agrees to respond to board questions under oath or affirmation at the board meeting.
  - (d) Upon receiving a timely request for review, the division must notify the board

chair of the need to place the matter on the board's agenda.

(2) There is no review of a request for additional information.

(3) Upon submission of a timely request for review, the confidential intermediary's existing license does not expire during board review if the board decision concerns compliance with the license renewal requirements.

(4) After hearing from the confidential intermediary and reviewing its decision, the board must issue a written, final decision.

#### **D. Qualified Continuing Education Activity.**

##### 1. Subjects. Continuing education activity must:

a. Address areas of proficiency, competency, and performance of a confidential intermediary; and

b. Convey knowledge and increase understanding of the profession, search techniques, ethics, code of conduct, Arizona court jurisdiction, the role of courts and judges, the Arizona tribal court system, cultural issues, administrative matters, adoption, the adoption triad, and dependency.

##### 2. Activities.

a. 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 satisfy all 6 hours of that year's continuing education at the conference if the requirements of this section are satisfied, including the "actual clock time," 1-hour ethics, and documentation requirements.

b. Educational institutions. A confidential intermediary may receive no more than 50% of the total number of continuing education credit hours in each 12-month continuing education period by achieving a passing grade in ~~for~~ a course provided by a university, college, or other accredited educational institution if the course is relevant to the confidential intermediary profession, adoption, adoption searches, or a related field. A passing grade is a "C" or better or a grade of "pass" in a pass/fail grading system. The amount of continuing education credit is determined by multiplying the number of credit hours awarded by the educational institution by 2.

c. Authoring or coauthoring articles. A confidential intermediary may receive up to 1 hour of continuing education credit in each 12-month continuing education period for authoring or coauthoring an article of at least 1,000 words on the subjects of adoptions, adoption searches, the adoption triad, or dependency if the article is published in a state or nationally recognized professional journal. A confidential intermediary may only receive credit for 1 publication of an article.

d. Self-Study. A confidential intermediary may receive continuing education credit for

self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. A confidential intermediary will not receive more than 50 % of the total number of continuing education hours required in a 12-month continuing education period through self-study. The remaining hours must be earned through instruction by 1 or more faculty or facilitators to an individual or a group using real-time interaction (“live training”).

e. Teaching.

- (1) A confidential intermediary may receive up to 6 hours of continuing education credit in each 12-month continuing education period for serving as an instructor, speaker, panelist, or faculty member of an instructional seminar directly related to the confidential intermediary profession as follows:
  - (a) A confidential intermediary may receive continuing education credit for the presentation time; and
  - (b) The confidential intermediary may also receive up to 2 hours of actual preparation time for each hour of original presentation time.
- (2) For subsequent presentations, a confidential intermediary:
  - (a) Will not receive duplicate credit for subsequent presentations of the same program during the same 12-month certification period.
  - (b) May receive continuing education credit for actual presentation time for duplicate programs presented in a different 12-month continuing education period but will not receive continuing education credit for preparation time for those duplicate programs.

5. Eligible Time.

a. Calculation.

- (1) The time in attendance at a qualified education activity that may be counted to satisfy a confidential intermediary’s continuing education requirement is the “actual clock time.”
- (2) “Actual clock time” is the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings.
- (3) After completion of the first 30 minutes of “actual clock time,” credit is earned in 15-minute increments or 0.25 hours.

b. Minimum time. A confidential intermediary may receive continuing education credit for qualified activity only if it consists of at least 30 minutes or 0.5 hours of “actual clock time” attended by the confidential intermediary.

c. Maximum credit. A confidential intermediary will not receive more than 3 hours of continuing education credit through any single continuing education activity in a 12-month continuing education period unless approved by the board as directly related to the confidential intermediary profession.

**E. Non-Qualifying Activities.** The following activities do not qualify for continuing education credit for confidential intermediaries:

1. Programs or training completed to qualify for initial certification:
2. Mentoring activities:
3. Attending or participating in professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation:
4. Serving on committees or councils or as an officer in a professional organization:
5. Completing activities required by the board as part of disciplinary action:
6. Repeating a qualified continuing education activity within the same 12-month continuing education period; and
7. Attending part, but not all, of a continuing education activity.

**F. Extension or Waiver.** A confidential intermediary seeking renewal of certification who has not fully complied with the continuing education requirement may request an extension or waiver of the continuing education requirement for up to 90 days on a showing of extenuating circumstances under this section instead of ACJA § 7-201.07(B).

1. A confidential intermediary seeking an extension or waiver of all or part of the continuing education requirement must file a request for an extension or waiver with the division no later than the August 31 close of the continuing education period for which the extension or waiver is sought.
2. A written request for an extension of time to comply with the continuing education requirement or a waiver of the requirement for the 12-month continuing education period must:
  - a. Include a detailed explanation of the facts supporting a finding of the extenuating circumstances that negatively impact the confidential intermediary's ability to fully comply with the continuing education requirements for that period;
  - b. Be signed and dated by the confidential intermediary; and
  - c. Include, immediately above the confidential intermediary's signature, the following statement: "I, [printed name of confidential intermediary], affirm that my statements and the information in my request for extension or waiver are true and correct and this information under penalty of perjury."
3. The division must review the written request and make a recommendation to the board.

4. In determining whether extenuating circumstances exist to support a requested extension or waiver of the continuing education requirement, the board must consider whether the confidential intermediary has been unable to devote sufficient hours to fulfill the continuing education requirement during the current 12-month certificate period because of:
  - a. Full-time service in the armed forces of the United States during a substantial part of the certification period;
  - b. An incapacitating illness documented by a statement from a currently licensed physician treating the confidential intermediary;
  - c. A physical inability to obtain 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.
5. If the board finds the confidential intermediary has demonstrated extenuating circumstances, the board may, as it finds appropriate under the circumstances:
  - a. Grant a one-time extension of up to 90 days for the confidential intermediary to complete the continuing education requirement; or
  - b. Waive all or part of the continuing education requirement for the 12-month continuing education period under specified terms and conditions.
6. A confidential intermediary whose certificate is under restriction or has been suspended or revoked by the board is not eligible to request a waiver or extension of the continuing education requirement.

**G. Random Compliance Audits.** The division may randomly select at least 10% of confidential intermediary renewal applications to audit compliance with the continuing education requirement. A confidential intermediary's failure to respond to, or refusal to comply with, a continuing education compliance audit-related request from the board or division may result in denial of renewal of certification or disciplinary action.

**H. Failure to Comply.** A confidential intermediary who fails to complete any portion of the continuing education requirement by the deadline, falsifies documents, or misrepresents attendance or an activity is subject to denial of license renewal and disciplinary action and sanctions under ACJA § 7-201.30, including assessment of the delinquent continuing education fee under ACJA § 7-203.11(C)(5).

SHOWING How Proposed § 7-203.06 Revises Current § 7-203(L)

Section 7-203.06: Continuing Education

~~L. Continuing Education Policy.~~

~~1A. Purpose.~~

- ~~a1. Ongoing~~ This section's continuing education requirement is one ~~method~~ way to ensure a confidential intermediary maintains competence in the field after competent to provide services post-certification is obtained. Continuing education also provides opportunities for confidential intermediaries to keep abreast of and remains current on changes in the profession and the Arizona judicial system.
- ~~b2. Under ACJA § 7 201(D), the board 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 section is intended to:~~
- ~~a. provide direction to confidential intermediaries to ensure~~ Ensure compliance with applicable rules, statutes, and this chapter; and
- ~~b. the continuing education requirements and to provide~~ Provide for equitable even-handed application and enforcement of the continuing education requirements.

B. Continuing Education Requirement. A certified confidential intermediary must comply with the continuing education requirement to obtain renewal of their certification.

~~21. Applicability~~ General requirement. All ~~A certified confidential intermediary intermediaries holding individual certification~~ must complete a minimum of at least 6-12 hours of approved qualified continuing education during the ~~12-month~~ 2-year continuing education period between each September 1 of each even-numbered year and August 31 of the following next even-numbered year, as follows: for a total of no fewer than 12 hours of continuing education completed by no later than August 31 of every even-numbered year.

- ~~a. Half of the total hours required must be earned in each year of the 2-year certification period. A certified confidential intermediary must complete~~ Of the 6 qualified continuing education hours of continuing education required during each 12-month period between September 1 of each calendar year and August 31 of the next calendar year,;
- ~~b. at~~ At least 1 hour of the 6 hours earned each year must be in ethics.

2. Non-transferable.

- ~~a. Hours completed~~ Continuing education hours may only be applied to satisfy the requirements ~~6-hour requirement~~ for the 12-month period in which ~~the participation occurred~~ hours were earned.
- ~~b. Excess continuing education hours completed in a 12-month period are not transferable to any other 12-month period.~~

3. Special rules during initial certification period.

a. Pre-certification hours. During a confidential intermediary's initial certification period, they may use qualified continuing education hours earned before their initial certification to satisfy the continuing education requirement if all the following apply:

- (1) The confidential intermediary was initially certified between September 1 of an even numbered-year and August 31 of the following odd-numbered year;
- (2) The continuing education hours completed before initial certification were completed between September 1 of an even numbered-year and August 31 of the following odd-numbered year;
- (3) The continuing education hours completed before initial certification would qualify as continuing education hours if completed after certification; and
- (4) The confidential intermediary's initial certification does not follow a prior certification that lapsed without renewal.

b. Modification; initial year of certification. The continuing education requirement for the initial certification period of a confidential intermediary who was initially certified after September 1 of an odd-numbered year is adjusted under the following circumstances:

- (1) A confidential intermediary initially certified during the 7-month period between September 1 of an odd-numbered year and March 31 of the immediately following even-numbered year must complete a total of 6 hours of continuing education during that 7-month period, including at least 1 hour of ethics.
- (2) A confidential intermediary initially certified in the 5-month period between April 1 and August 31 of an even-numbered year must complete 3 hours of continuing education during that 5-month period, including at least 1 hour of ethics.

c. Following renewal of initial certification, the confidential intermediary must comply with the general requirement under (B)(1).

### **C. Compliance.**

~~31. Responsibilities of Confidential Intermediaries Responsibility. a. Each confidential intermediary Confidential intermediaries are responsible for monitoring their own must ensure compliance with the continuing education requirements; including maintain maintaining documentation of continuing education hours completed for during each 12-month period; including course content and course materials, for 5 years; and submit such documentation to the division on the request of the board or the division.~~

2. Documentation. Confidential intermediaries must obtain documentation about their continuing education activities from the sponsor of the program, including documentation of:

a. The sponsor's name;

b. The name, date, and location of the program;

c. The confidential intermediary's registration as an attendee;

d. The program's subject matter and content, including materials provided to attendees;

e. The program's agenda or schedule showing time allotted to introductory remarks, breaks, meals, and business meetings

- f. The confidential intermediary's "actual clock time" for the activity and, if different from the "actual clock time," the number of credit hours awarded by the sponsoring entity for full attendance; and
- g. The signature of the sponsor or an official document issued by the sponsor signifying the confidential intermediary's completion of the program.

### 3. Reporting.

- a. With renewal application. When applying for certification renewal, a confidential intermediary must affirm continuing education compliance for the ending certification period using the format directed by the division.
- b. Upon request, each a confidential intermediary must provide any additional information required about continuing education compliance as requested by the board or the division in connection with their review of any a renewal application or continuing education documentation, including documentation about continuing education compliance in a prior licensing period.
- ~~c. Continuing education not recognized for credit upon board review does not relieve the confidential intermediary of the responsibility to complete the required hours of continuing education.~~

### 4. Review and decision.

- a. Findings. After reviewing continuing education documentation and any applicable additional information requested, the board may:
  - (1) Find compliance with the continuing education requirement;
  - (2) Require additional information from the confidential intermediary seeking renewal before making a decision;
  - (3) Find partial compliance with the continuing education requirement and order remedial measures; or
  - (4) Enter a finding of non-compliance.
- b. Notice. Within 10 days of the board's decision, the division must give the confidential intermediary written notice of the board's decision and the reasons for the decision.
- c. Review and decision.
  - (1) If the board finds full or partial non-compliance with the continuing education requirements:
    - (a) Within 15 days after the date of written notice of the board's decision, the confidential intermediary may submit a written request for board review in the manner required for requests under ACJA § 7-201.28(A)(2).
    - (b) A request for board review includes a request to address the board in response.
    - (c) By making a request to address the board, the confidential intermediary also agrees to respond to board questions under oath or affirmation at the board meeting.
    - (d) Upon receiving a timely request for review, the division must notify the board chair of the need to place the matter on the board's agenda.
  - (2) There is no review of a request for additional information.
  - (3) Upon submission of a timely request for review, the confidential intermediary's existing license does not expire during board review if the board decision concerns compliance with the license

renewal requirements.

(4) After hearing from the confidential intermediary and reviewing its decision, the board must issue a written, final decision.

**4D. Authorized Qualified Continuing Education Activities ~~Activity~~.**

a1. ~~Continuing Education~~ Subjects. Continuing education activity must:

a. ~~address~~ Address areas of proficiency, competency, and performance of a confidential intermediary; and

b. ~~impart~~ Convey knowledge and increase understanding of the profession, search techniques, ethics, code of conduct, Arizona court jurisdiction and responsibilities, the role of courts and judges, the Arizona tribal court system, cultural issues, administrative matters, adoption, the adoption triad, and dependency.

2. Activities.

ea. 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 satisfy all 6 hours of that year's continuing education requirements at the conference, providing that the confidential intermediary satisfies the if the requirements of this section are satisfied, including the "actual clock time," 1-hour ethics, and documentation requirement requirements. ~~Introductory remarks, breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.~~

db. ~~University, College and Other Educational Institution Courses~~ institutions. A confidential intermediary may receive no more than 50% of the total number of continuing education credit hours in each 12-month continuing education period by achieving a passing grade in ~~for~~ a course provided by a university, college, or other ~~institutionally~~ accredited educational program-institution if the course is relevant to the confidential intermediary profession, adoption, adoption searches, or a related field. ~~if the confidential intermediary successfully completes the course with a A passing grade of is a "C" or better or a grade of "pass" in a pass/fail grading system. A confidential intermediary may receive-~~ The amount of continuing education credit is determined by multiplying ~~of up to two times~~ the number of credit hours awarded by the educational institution by 2, ~~if the course is relevant to the confidential intermediary profession, adoption, adoption searches, or a related field. The maximum hours of continuing education credits earned from educational course work may not exceed 50 percent of the total number of continuing education hours required during the 12-month, continuing education period.~~

ec. Authoring or Coauthoring Articles ~~coauthoring~~ articles. A confidential intermediary may receive up to 1 hour of continuing education credit in each 12-month continuing education period for authoring or coauthoring an article of at least 1,000 words ~~directly related to~~ on the subjects of adoptions, adoption searches, the adoption triad, or dependency; 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 1 hour of continuing education credit each year for authoring an article or articles in the 12-month, continuing education period. A confidential intermediary may not only receive credit for the same article published in more than one 1 publication or republished in the same publication in later editions of an article.~~

~~fd.~~ Self-Study. A confidential intermediary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. ~~A confidential intermediary will not receive more than The maximum hours of continuing education credits earned in a self-study format must not exceed 50 percent %~~ of the total number of continuing education hours required ~~during the in a~~ 12-month continuing education period ~~through self-study~~. The remaining hours must be ~~obtained~~ earned through ~~training or education instruction provided by one 1~~ or more faculty or facilitators to an individual or a group using real-time interaction (“live training”).

~~ge.~~ Serving as Faculty Teaching.

(1) A confidential intermediary may receive up to 6 hours of continuing education credit in each 12-month continuing education period for serving as an instructor, speaker, panelist, or faculty member of an instructional seminar directly related to the confidential intermediary profession as follows:

(a) A confidential intermediary may receive continuing education credit for the presentation time; and

(b) ~~plus~~The confidential intermediary may also receive up to ~~two 2~~ hours of actual preparation time for each hour of original presentation time. ~~The maximum hours of continuing education credits earned as faculty credit may not exceed 50 percent of the total number of continuing education hours required during the 12-month, continuing education period.~~

(2) For subsequent presentations, a ~~A~~ confidential intermediary:

(a) ~~may~~ Will not receive duplicate credit for ~~repeating a presentation~~ subsequent presentations of the same program during the same 12-month certification period.

(b) May receive continuing education credit for actual presentation time for duplicate programs presented in a different 12-month continuing education period but will not receive continuing education credit for preparation time for those duplicate programs.

5. ~~Minimum Eligible Time.~~

a. Calculation. ~~Each continuing education activity must consist of at least 30 minutes of actual clock time spent in actual attendance at and completion of a continuing education activity.~~

(1) The time in attendance at a qualified education activity that may be counted to satisfy a confidential intermediary’s continuing education requirement is the “actual clock time.”

(2) “Actual clock time” is the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings.

(3) After completion of the first 30 minutes of ~~a continuing education activity~~ “actual clock time,” credit ~~will be recognized~~ is earned in 15-minute increments or 0.25 hours.

b. Minimum time. A confidential intermediary may receive continuing education credit for qualified activity only if it consists of at least 30 minutes or 0.5 hours of “actual clock time” attended by the confidential intermediary.

~~6c.~~ Maximum Credit credit. Unless the board otherwise determines a continuing education activity is directly related to the confidential intermediary profession, ~~a~~ A confidential intermediary ~~may~~ will not receive more than 3 hours of continuing education credit through any one single continuing education

activity in a 12-month, continuing education period unless approved by the board as directly related to the confidential intermediary profession.

~~7E.~~ **Non-Qualifying Activities. a.**—The following activities do not qualify for continuing education credit for confidential intermediaries:

- ~~(1.)~~ Programs or training completed to qualify for initial certification;
- ~~(2.)~~ Mentoring activities;
- ~~(3.)~~ ~~Attendance or participation at~~ Attending or participating in professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation;
- ~~(4.)~~ Serving on committees or councils or as an officer in a professional organization; ~~and~~
- ~~(5.)~~ ~~Activities completed as~~ Completing activities required by the board as part of a disciplinary action;

~~b6.~~ ~~Repeat of an Activity.~~ Continuing Repeating a qualified continuing education activities repeated during a activity within the same 12-month, continuing education period ~~do not qualify for credited duplicate hours;~~ and

~~e7.~~ ~~If a confidential intermediary attends~~ Attending 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, a confidential intermediary must obtain documentation of attendance or completion from the sponsoring entity that must include at least all of the following:~~

- ~~a.~~ Name of the sponsor;
- ~~b.~~ Name of the participant;
- ~~c.~~ Topic of the subject matter;
- ~~d.~~ Number of hours actually attended or the number of credit hours awarded by the sponsoring entity;
- ~~e.~~ Date and place of the program; and
- ~~f.~~ Signature of the sponsor or an official document from the sponsoring entity.

~~9.~~ ~~Compliance and Non-Compliance.~~

~~a.~~ ~~Affirmation of Compliance.~~ ~~A confidential intermediary must affirm continuing education compliance when applying for renewal of certification. The affirmation must be in the format provided by the division.~~

~~b.~~ ~~Proration of Continuing Education.~~

- ~~(1)~~ ~~A confidential intermediary initially certified between September 1 of an odd numbered year and March 31 of the following even numbered year must complete a total of six hours of~~

~~continuing education, including at least one hour of ethics. In subsequent certification periods, the confidential intermediary must meet the requirements in (L)(2).~~

- ~~(2) A confidential intermediary initially certified between April 1 and August 31 of an even-numbered year must complete three hours of continuing education, including at least one hour of ethics. In subsequent certification periods, the confidential intermediary must meet the requirements in (L)(2).~~
- ~~(3) A confidential intermediary initially certified between September 1 of an even-numbered year and August 31 of the following odd-numbered year who, before their initial certification but during this period, completed activities that would qualify as continuing education hours under subsection (L) if completed by a licensee, may apply those hours toward the continuing education requirements for the first renewal of certification.~~
- ~~(4) These proration of continuing education provisions do not apply to a confidential intermediary who previously held certification, allowed the certification to lapse, and was subsequently granted certification during the renewal period.~~

**eF. Extension or Waiver of Continuing Education Requirements.** A confidential intermediary seeking renewal of certification who has not fully complied with the continuing education requirements requirement may request an extension or waiver of the continuing education requirements requirement for up to 90 days on a showing of extenuating circumstances under the following conditions: this section instead of ACJA § 7-201.07(B).

- ~~(1.)~~ No later than August 31 of the even-numbered year, the A confidential intermediary seeking an extension or waiver of all or part of the continuing education requirement must submit an affirmation to the board stating the facts and circumstances negatively impacting the confidential intermediary's ability to fully comply with the continuing education requirements for that period and requesting an file a request for an extension or waiver of the requirements with the division before the end of the no later than the August 31<sup>st</sup> close of the continuing education period for which the extension or waiver is sought. On a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the confidential intermediary to complete the continuing education requirement.
2. A written request for an extension of time to comply with the continuing education requirement or a waiver of the requirement for the 12-month continuing education period must:
  - a. Include a detailed explanation of the facts supporting a finding of the extenuating circumstances that negatively impact the confidential intermediary's ability to fully comply with the continuing education requirements for that period;
  - b. Be signed and dated by the confidential intermediary; and
  - c. Include, immediately above the confidential intermediary's signature, the following statement: "I, [printed name of confidential intermediary], affirm that my statements and the information in my request for extension or waiver are true and correct and this information under penalty of perjury."
3. The division must review the written request and make a recommendation to the board.
- ~~(24.)~~ The board must determine In determining whether extenuating circumstances exist. In reviewing the request to support a requested extension or waiver of the continuing education requirement, the board must consider if whether the confidential intermediary has been unable to devote sufficient hours to fulfill the requirements continuing education requirement during the current 12-month certificate

period because of:

- ~~(a.)~~ Full-time service in the armed forces of the United States during a substantial part of the certification period;
- ~~(b.)~~ An incapacitating illness documented by a statement from a currently licensed physician treating the confidential intermediary;
- ~~(c.)~~ A physical inability to obtain approved programs documented by a statement from a currently licensed physician treating the confidential intermediary; or
- ~~(d.)~~ ~~any~~ Any other special circumstances the board deems appropriate.

5. If the board finds the confidential intermediary has demonstrated extenuating circumstances, the board may, as it finds appropriate under the circumstances:

- a. Grant a one-time extension of up to 90 days for the confidential intermediary to complete the continuing education requirement; or
- b. Waive all or part of the continuing education requirement for the 12-month continuing education period under specified terms and conditions.

~~(36.)~~ A confidential intermediary whose certificate is under restriction or has been suspended or revoked by the board is not eligible to request a waiver or extension of the continuing education requirement.

- ~~d. The board or the division may request documentation or additional information from a confidential intermediary applying for renewal to verify compliance with the continuing education requirements. If the confidential intermediary fails to provide the requested documentation or additional information, the board may deem the application for renewal incomplete and deny renewal of certification.~~

~~**eG. Random Compliance Audits of Continuing Education Compliance.** During each renewal review period, the The division ~~must~~ may randomly select at least 10% of confidential intermediary renewal applications to ~~demonstrate~~ audit compliance with the continuing education requirement ~~compliance~~. Refusal or a confidential intermediary's failure to respond to, or refusal to comply with, a ~~request from the board or the division for audit documentation of continuing education compliance~~ audit-related request from the board or division may result in denial of renewal of certification or disciplinary action ~~under ACJA § 7-201 and this section.~~~~

~~**fH. Failure to Comply.** A confidential intermediary who fails to complete any portion of the continuing education requirement by the deadline, ~~completes any portion of the continuing education requirement late,~~ falsifies documents, or misrepresents attendance or an activity is subject to denial of license renewal and disciplinary action and sanctions under ACJA § 7-201.30, including assessment of the delinquent continuing education fee under ACJA § 7-203.10(C)(5). ~~any or all of the following actions of the board:~~~~

- ~~(1) Assessment of the delinquent continuing education fee;~~
- ~~(2) Denial of renewal of certification; and~~
- ~~(3) Disciplinary action under ACJA § 7-201(H) and this section.~~

10. Board Decision Regarding Continuing Education Compliance.

- a. ~~Upon a review of continuing education documentation and any applicable additional information requested, the board may:~~
- ~~(1) Recognize the confidential intermediary's compliance with the continuing education requirement;~~
  - ~~(2) Require additional information from the confidential intermediary 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. ~~The division 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 division within 15 days of receipt of notification of the board's decision. The confidential intermediary 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 will continue active until a final decision is made by the board.~~
- d. ~~The board must issue its decision on the appeal in writing. The decision is final and binding.~~

#### Section 7-203.07: Certification Renewal

**A. Authority.** Renewal of confidential intermediary certification is governed by ACJA § 7-201.19 and this section.

**B. Timing.**

1. Expiration date. Confidential intermediary certificates expire at midnight on October 31 of each even-numbered year.
2. Timely filing. By timely filing a complete certification renewal application, the confidential intermediary's existing certificate does not expire during the renewal process. A confidential intermediary's renewal application is timely if filed with the division from September 1 through September 30 of each even-numbered year. A renewal application submitted during the month of October or later in each even-numbered year will be assessed the late renewal fee under subsection (K)(3)(e).

**C. Renewal Application.** In addition to completing the renewal application form specified by the division, the following requirements apply to confidential intermediary certification renewal applications.

1. Late fee. The late fee under ACJA 7-203.11(K)(3)(e) must be paid:
  - a. When a confidential intermediary files an untimely renewal application under ACJA § 7-203.06(C)(3).

- b. When a confidential intermediary files a renewal application after their certificate expires.
2. Continuing Education. A certified confidential intermediary must affirm continuing education compliance under ACJA § 7-202.13 when applying for renewal of certification.

### Section 7-203.08: Code of Conduct

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

- ~~1. **Standards of Conduct.** A confidential intermediary must adhere to the standards of conduct in subsection (J).~~

A. **Applicability.** The Confidential Intermediary Code of Conduct is the minimum standard of performance for confidential intermediaries adopted by the supreme court.

#### B. **Compliance.**

1. A confidential intermediary must comply with this section in addition to ACJA § 7-201.20.
2. Violation of the Confidential Intermediary Code of Conduct is grounds for discipline under ACJA § 7-201.21(A)(2), (A)(3), and (B)(14).

#### C. **Performance Standards.**

1. **Requirement.** A confidential intermediary must perform all services and discharge all obligations according to the requirements imposed on confidential intermediaries under this section, this chapter, Arizona and federal laws, and court orders, including administrative orders issued by the supreme court.
2. **Identification.** When accessing files related to a search, a confidential intermediary must provide the valid photo identification issued by the confidential intermediary program.
3. **Parties.** A confidential intermediary may provide services only to qualified individuals as defined in subsection (A).
- ~~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.~~
4. Finalization report.

a. A confidential intermediary must file a finalization report with the division within 45 days of:

- (1) Every completed search; and
- (2) When the confidential intermediary is no longer providing search services to a qualified individual.

b. A finalization report must include:

- (1) A copy of any consent or refusal documents;
- (2) Documentation of any consultation or mentoring agreement;
- (3) A copy of the file review statement; and
- (4) A summary report of the search process and outcome.

5. Notice of Withdrawal.

a. From a search. A confidential intermediary may withdraw from a search for any reason- by filing with the division:

- ~~a.(1) If a confidential intermediary withdraws from a search, the confidential intermediary must submit a A notice of withdrawal form to the division for that search on a form provided by the division.~~
- ~~b.(2) The confidential intermediary must submit to the division a A finalization report under (5)(b) for each case in which the confidential intermediary withdraws-as required by subsection (F)(6).~~

b. After voluntary surrender or transfer to inactive status. A confidential intermediary who voluntarily surrenders their certificate under ACJA § 7-201.16 or transfers to inactive status under ACJA § 7-201.17 must:

- (1) Submit the (5)(a)(1) notice of withdrawal for each of the confidential intermediary's open searches;
- (2) Provide a copy of the notice of withdrawal to each affected client; and
- (3) Submit a finalization report under (4) for each of the confidential intermediary's open searches.

~~6. Finalization Report. A confidential intermediary must file with the division a finalization report for every completed search and within 45 days of withdrawal on searches where the confidential intermediary has withdrawn.~~

~~a. The finalization report 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.~~

~~76. Records Retention of Records. A confidential intermediary must maintain all search-related documentation, including receipts, for every search for no less than at least 5 years.~~

~~8. Voluntary Surrender or Request for Inactive Status. ACJA § 7-201(E)(7) and (E)(8) govern the process for a confidential intermediary to voluntarily surrender their certificate or transfers to inactive status. In addition, the confidential intermediary who voluntarily surrenders their certificate or transfers to inactive status must:~~

~~a. Submit the notice of withdrawal required by subsection (F)(5) for each of the confidential intermediary's open searches;~~

~~b. Provide a copy of the notice of withdrawal to each affected client; and~~

~~c. Submit the finalization report required by subsection (F)(6) of this section for each of the confidential intermediary's open searches.~~

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

~~1. Expiration Date. All certificates expire at midnight on October 31, of each even-numbered year.~~

~~2. A renewal application is timely if submitted during the month of September of each even-numbered year. A renewal application submitted during the month of October or later in each even-numbered year will be assessed the late renewal fee under subsection (K)(3)(c).~~

~~3. Continuing Education. All confidential intermediaries must complete at least 12 hours of continuing education under subsection (L).~~

~~H. Complaints, Investigations, Disciplinary Proceedings and Certification and Disciplinary Hearings. 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. The policies and procedures governing members of the confidential intermediary board are as stated in ACJA § 7-201(I).~~

~~J. Standards of Conduct. The following standards of conduct establishes minimum standards of performance for confidential intermediaries and to ensure the confidentiality of the search and consent process. These standards of conduct must be followed by all confidential intermediaries in the state of Arizona.~~

~~17. Confidentiality.~~

~~a. In all actions, the confidential intermediary must keep paramount the importance and significance of confidentiality. The confidential intermediary must exercise extreme~~

the highest degree of care and diligence in respecting the privacy and confidentiality of all parties involved in a search.

b. The Under A.R.S. § 8-134 and A.R.S. § 8-543, the confidential intermediary must keep may only use confidential all-information obtained during a search and may use the confidential information only to:

(1) to arrange Arrange a contact or to share, as permitted by A.R.S. §§ 8-143(D) and 8-543(C), between the person who initiated the search and the person who is the subject of the search; and

(2) Share information between the person who initiates the search and the person who is the subject of the search.

c. The confidential intermediary must maintain records in a professional manner that protects the confidentiality of information contained in the records.

d. A confidential intermediary may consult with another confidential intermediary on a case-by-case basis and disclose only the case information necessary for the specific purpose of soliciting ideas or information to assist the confidential intermediary in carrying out a search.

(1) The case finalization report must clearly disclose the use of any consulting confidential intermediary.

(2) The confidentiality restrictions under this section apply to both the confidential intermediary conducting the search and the consulting confidential intermediary.

e. A confidential intermediary may act as a mentor to assist a less experienced confidential intermediary. The inexperienced confidential intermediary and the mentoring confidential intermediary may share confidential information as necessary for the purpose of instruction, to increase the inexperienced confidential intermediary's skill level, and to increase the likelihood of a successful search.

(1) If the inexperienced confidential intermediary is conducting the search, the case finalization report filed by the inexperienced confidential intermediary must clearly disclose the use of any mentoring confidential intermediary.

(2) If the mentoring confidential intermediary is conducting the search, the case finalization report filed by the mentoring confidential intermediary must clearly disclose the use of any inexperienced confidential intermediary.

(3) The confidentiality restrictions under this section apply to both the mentoring confidential intermediary and the inexperienced confidential intermediary.

## 8. Searches.

a. Duties. A confidential intermediary must:

(1) Determine that the client requesting a search is a qualified person.

(2) Conduct each search using efforts appropriate to the case.

- ~~e.~~ (3) Perform a diligent and expedient search in any court-ordered medical search.
- ~~e.~~ (4) In searches other than court-ordered medical searches, use the degree of diligence required by the agreement between the confidential intermediary and the client.
- ~~e.~~ (5) ~~The confidential intermediary must review the Review court records to determine whether a party filed an affidavit consenting to or blocking contact and ~~must act according to the wishes expressed by such an affidavit accordingly.~~~~
- ~~d.~~ (6) ~~The confidential intermediary must perform all duties and responsibilities under Comply with the Arizona laws relating to adoption, including those limiting the release of information.~~
- ~~e.~~ ~~The confidential intermediary must maintain required records in a professional manner that protects the confidentiality of information contained in the records.~~
- ~~f.~~ (7) ~~The confidential intermediary, having located the After locating a sought-after party, may:~~
  - ~~(a)~~ ~~disclose~~ Disclose to the client and located party only that information relevant to the physical safety and protection of the parties and their families as is necessary to allow the client and located party to make an informed decision about whether to consent to the release of identifying information.
  - ~~(b)~~ ~~The confidential intermediary must present such Present information relevant to the physical safety and protection of the parties and their families in a nonjudgmental manner.~~

b. Prohibitions. A confidential intermediary must not:

- (1) Remove adoption case records or sibling information records from agency or court files.
- (2) Falsify or alter records.
- ~~g.~~ ~~On a case by case basis, the confidential intermediary may consult with another confidential intermediary and disclose only that case information necessary for the specific purpose of soliciting ideas or information that would assist the confidential intermediary in carrying out the search to arrange a contact. The case finalization report must clearly disclose the use of any consulting confidential intermediary. Except as provided in this subsection, all confidentiality restrictions apply to both confidential intermediaries.~~
- ~~h.~~ ~~A confidential intermediary may act as a mentor to assist a less experienced confidential intermediary. The inexperienced confidential intermediary and the mentoring confidential intermediary may share confidential information as necessary for the purpose of instruction to increase the skill level and the likelihood of a successful search. The case finalization report must clearly disclose the use of any mentoring confidential intermediary. Except as provided in this subsection, all confidentiality restrictions apply to both confidential intermediaries.~~

29. Skills and Knowledge. A confidential intermediary must:

- ~~a.~~ ~~The confidential intermediary must demonstrate possession of Have the skills and~~

knowledge ~~adequate~~ necessary to perform the work of a confidential intermediary.

~~b. and must satisfy~~ Maintain compliance with the ongoing continuing education requirements of subsection (L) requirement under ACJA § 7-203.06.

~~bc.~~ After obtaining certification, ~~the confidential intermediary must~~ maintain competence in the field and ensure that their knowledge of all laws application to about adoption and sibling information exchange ~~issues~~ remains current.

~~e.~~ ~~The confidential intermediary must inform the parties of the availability of resources for support.~~

~~d.~~ ~~The confidential intermediary must maintain~~ Maintain a working knowledge of documents and information customarily ~~contained~~ found in court and agency files.

~~e.~~ ~~The confidential intermediary must possess~~ Possess the verbal and written communication skills necessary to perform the confidential intermediary role, including ~~an aptitude for communicating the skills necessary to effectively communicate~~ in person, by telephone, and by email and other forms of correspondence.

~~f.~~ ~~The confidential intermediary must manage~~ Efficiently manage each case proficiently and ~~possess the skills necessary to skillfully~~ perform searches, make contacts, maintain records, and discharge cases in a timely fashion.

10. Communications. A confidential intermediary must:

~~ga.~~ ~~The confidential intermediary must keep~~ Keep the client reasonably informed about the status of ~~the~~ their search.

~~b.~~ ~~and promptly~~ Promptly comply with reasonable requests for information.

~~hc.~~ ~~The confidential intermediary must prepare~~ Prepare complete, accurate, and understandable reports, ~~and including~~ finalization reports.

~~i.~~ ~~The confidential intermediary must conduct each search using efforts appropriate to the case.~~

~~j.~~ ~~The confidential intermediary must perform a diligent and expedient search 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.~~

311. Fees and Expenses Reasonable charges.

a. ~~The~~ A confidential intermediary may only charge those fees and expenses reasonably and necessarily incurred in conducting the search and providing authorized services ~~under applicable statutes, ACJA § 7-201, this section, and administrative orders~~

~~adopted by the supreme court.~~

- b. ~~The~~ A confidential intermediary ~~must~~ may ~~not charge more than the amounts permitted under subsection (M) of this section.~~ a client for the following fees and expenses:
- (1) A one-time, set-up fee of up to \$100.00 for activities preliminary to search services, including any initial review and consultation related to search services.
  - (2) A fee of up to \$100.00 per hour for investigation and research services.
  - (3) A fee of up to \$50.00 per hour for bookkeeping or travel time.
  - (4) If the confidential intermediary incurred costs and expenses specific to a search, the confidential intermediary may charge the client the amount incurred without any mark-up.
  - (5) The amount of mileage billed must not exceed the current Arizona Department of Administration General Accounting Office personal vehicle mileage reimbursement rate published in the State of Arizona Accounting Manual.
- c. The confidential intermediary must return to the client all fees collected in advance but not earned.

#### 412. Sensitivity and Professionalism.

- a. The confidential intermediary 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~~ a search, ~~including and must exhibit an ability to:~~
- ~~(1) the ability to empathize~~ Empathize with others;<sub>i</sub>
  - ~~(2) be~~ Be discreet in dealing with confidential information;<sub>i</sub> ~~and~~
  - ~~(3) recognize~~ Navigate the emotions of adopted individuals, adoptive parents, birth parents, and former dependent children involved in the search and reunion process all involved parties; ~~and~~
  - (4) Inform the parties of the availability of resources for support.
- b. The confidential intermediary must strive to develop professional objectivity regarding biases, attitudes, and beliefs about adoption, reunion, and sibling information exchange issues.
- c. The confidential intermediary must demonstrate the ability to work with individuals regardless of their culture, ethnicity, religion, sexual orientation, or lifestyle.
- ~~d. The confidential intermediary must not remove adoption case or sibling information records from agency or court files or falsify or alter records.~~
- ed. The confidential intermediary must not use materials or employ methods inconsistent or in conflict with the ~~goals and~~ role of a confidential intermediary or for the confidential intermediary's personal benefit.

- fe. ~~The~~ Even if a confidential intermediary is otherwise qualified to do so, a confidential intermediary must not assume the role of a therapist, ~~or counselor, or advocate~~ when acting ~~in the capacity of~~ as a confidential intermediary, ~~even if otherwise qualified to do so,~~ but may provide ~~initial~~ educational information. ~~A confidential intermediary must demonstrate an understanding of how the confidential intermediary role differs from that of a counselor or an advocate.~~
- gf. The confidential intermediary must not ~~provide or offer~~ or to provide legal advice ~~in the role of~~ when acting as a confidential intermediary.
- hg. ~~The~~ A confidential intermediary must not ~~violate any rules or policies established by the supreme court regarding the confidential intermediary or sibling information exchange programs or engage in~~ conduct ~~themselves in a manner that would reflect adversely on the judiciary, the courts, or other agencies involved in the administration of justice.~~

### §13. Ethics.

- a. ~~The search for and reunion of adopted individuals, adoptive parents and birth parents and former dependent children are emotionally charged events. Because the primary sources of information about the unknown parties are confidential, the~~ The confidential intermediary must conduct themselves according to the highest standards of trust, impartiality, and respect in performing services.
- b. The confidential intermediary must perform services in a manner consistent with legal and ethical standards.
- c. The confidential intermediary must not assume the role of ~~an~~ advocate or use coercion or undue influence to persuade any party ~~to~~ a search to take or not take any action.
- d. A confidential intermediary must ~~be cognizant of~~ recognize any limitations/limits on their knowledge, abilities, and experience and seek necessary guidance from written authorities or ~~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 may consult other experienced confidential intermediaries about a case under subsection (J)(1)(g)-(7)(d). Nonetheless, a~~ A confidential intermediary ~~is ultimately~~ remains responsible for decisions made in any case in which another confidential intermediary is consulted.
- e. The confidential intermediary 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 must not misrepresent any circumstances or information specific to a case to any client or any party located.
- f. The confidential intermediary must not utilize certification in any manner to gain access to

information or services for purposes other than those of the confidential intermediary program.

14. Conflict of interest.

ea. The confidential intermediary must avoid any conflict of interest or the appearance of a conflict of interest: by not accepting a search request, continuing work on a search request, or otherwise serving as a confidential intermediary, including when:

- (1) The confidential intermediary must not accept a search request or continue on a case involving involves a relative, business associate, or personal close friend if the relationship is such that the relative, business associate, or personal close friend may exert undue pressure on the confidential intermediary; or
- (2) The confidential intermediary must not accept a search request on any case where the The confidential intermediary cannot act in an objective manner or perform services as required.

(3)b. The confidential intermediary 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.

c. For purposes of this provision, “conflict of interest” means the circumstance where a confidential intermediary’s search for a qualified individual may benefit or harm a personal, business, or employment interest of the confidential intermediary or their relative, business associate, or close friend or where the confidential intermediary’s professional judgment is compromised.

f. The confidential intermediary 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 must not misrepresent any circumstances or information specific to a case to any client or any party located.

g. The confidential intermediary 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 must perform all services and discharge all obligations in accordance with current Arizona and federal laws, ACJA § 7-201, this section, and administrative orders adopted by the supreme court governing the certification of confidential intermediaries.

**Section 7-203.10: Fee Schedule**

**K. Fee Schedule.** Under its authority to administer the confidential intermediary and sibling information exchange programs, the supreme court adopts the following fee schedule:

**1A. Initial Certification Fees.**

- a1. Individual ~~Initial Certification Application~~ Fee.
  - (1)a. For certification expiring more than ~~one~~ 1 year after application date \$100.00
  - (2)b. For certification expiring less than ~~one~~ 1 year after application date \$ 50.00
- b2. Fingerprint Application Processing Fee  
(Rate as set by Arizona law and subject to change.)
- e3. Initial Training: Live Training Component \$100.00
- d4. Government Agency Initial Certification \$ 0.00  
(~~Applicable to~~ The initial certification fee is waived for all designated agency representatives and agency individuals seeking ~~training or initial~~ certification. ~~The initial certification fee is waived, but these applicants are required to pay only the fees for training and fingerprinting.~~)

**2B. Examination Fees.**

- a1. Applicants for Initial Certification \$100.00
- b2. Reexaminations \$100.00  
(For any applicant who did not pass the examination on the first attempt. The \$100.00 fee applies to each reexamination.)
- e3. Reregistration for Examination \$100.00  
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)
- d4. ~~The fee for~~ Online Exam Administration, ~~Remote Proctoring is set~~  
(Set by the Administrative Director, Administrative Office of the Courts.)

**3C. Renewal Certification Certificate Renewal.**

- a1. Individual Certificate Renewal ~~Certification~~ Fee \$100.00
- b2. Governmental Agency Certificate Renewal ~~Certification~~ \$ 0.00  
(~~Applicable to~~ The renewal certification fee is waived for all designated agency representatives and agency individuals seeking renewal of certification. ~~The renewal certification fee is waived.~~)

e3. Late Renewal	\$100.00
d4. Inactive Status	\$ 50.00
e5. Delinquent Continuing Education	\$100.00

**4D. Miscellaneous Fees.**

a1. Replacement of Certificate, Badge or Name Change	\$ 50.00
b2. Public Record Request per Page Copy	\$ 0.50
e3. Certificate of Correctness of Copy of Record	\$ 18.00
d4. Reinstatement Application (Application for reinstatement to certification after suspension or revocation of certification.)	\$100.00
e5. Initial Training Manual for Purchase Separately from Certification	\$ 75.00

**~~L. Continuing Education Policy.~~**

~~1. Purpose.~~

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

~~b. Under ACJA § 7 201(D), the board 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. All confidential intermediaries holding individual certification must complete a minimum of 6 hours of approved continuing education during the 12 month period between each September 1 and August 31 of the following year, for a total of no fewer than 12 hours of continuing education completed by no later than August 31 of every even-numbered year. Of the 6 hours of continuing education required each year, at least 1 hour must be in ethics. Hours completed may only be applied to satisfy the requirements for the 12-month period in which the participation occurred. Excess continuing education hours completed in a 12-month period are not transferable to any other 12-month period.~~

~~3. Responsibilities of Confidential Intermediaries.~~

- ~~a. Each confidential intermediary must ensure compliance with the continuing education requirements; maintain documentation of continuing education hours completed for each 12-month period, including course content and course materials, for 5 years; and submit such documentation to the division on the request of the board or the division.~~
- ~~b. Upon request, each confidential intermediary must provide any additional information required by the board or the division in connection with their review of any renewal application or continuing education documentation.~~
- ~~c. Continuing education not recognized for credit upon board review does not relieve the confidential intermediary of the responsibility to complete the required hours of continuing education.~~

#### ~~4. Authorized Continuing Education Activities.~~

- ~~a. Continuing Education. Continuing education activity must address areas of proficiency, competency, and performance of a confidential intermediary and impart knowledge and understanding of the profession, search techniques, Arizona court jurisdiction and responsibilities, the role of judges, the Arizona tribal court system, cultural issues, administrative matters, adoption, the adoption triad, and dependency.~~
- ~~e. 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 satisfy all 6 hours of that year's continuing education requirements at the conference, providing that the confidential intermediary satisfies the 1-hour ethics requirement. Introductory remarks, 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. 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. The maximum hours of continuing education credits earned from educational course work may not exceed 50 percent of the total number of continuing education hours required during the 12-month, continuing education period.~~
- ~~e. Authoring or Coauthoring Articles. A confidential intermediary may receive continuing education credit for authoring or coauthoring an article directly related to the subjects of adoptions, adoption searches, the adoption triad, or dependency; 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 1 hour of continuing education credit each year for authoring an article or articles in the 12-month, continuing education period. A confidential intermediary may not receive credit for the same article published in more than one publication or republished in the same publication in later editions.

~~f. Self Study. A confidential intermediary may receive continuing education credit for self study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. The maximum hours of continuing education credits earned in a self study format must not exceed 50 percent of the total number of continuing education hours required during the 12-month, continuing education period. The remaining hours must be obtained through training or education provided by one or more faculty or facilitators to an individual or a group using real time interaction (“live training”).~~

~~g. Serving as Faculty. A confidential intermediary may receive continuing education credit for serving as an instructor, speaker, panelist or faculty member of an instructional seminar directly related to the confidential intermediary profession. A confidential intermediary may receive continuing education credit for the presentation time plus up to two hours of actual preparation time for each hour of presentation. The maximum hours of continuing education credits earned as faculty credit may not exceed 50 percent of the total number of continuing education hours required during the 12-month, continuing education period. A confidential intermediary may not receive duplicate credit for repeating a presentation during the certification period.~~

~~5. Minimum Time. Each continuing education activity must consist of at least 30 minutes of actual clock time spent 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 first 30 minutes of a continuing education activity, credit will be recognized in 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 may not receive more than 3 hours credit through one activity in a 12-month, continuing education period.~~

~~7. Non-Qualifying Activities.~~

~~a. The following activities do not qualify for continuing education credit for confidential intermediaries:~~

- ~~(1) Programs or training completed to qualify for initial certification;~~
- ~~(2) 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 an officer in a professional organization;~~
- ~~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 12-month, continuing education period do not qualify for credited duplicate hours.~~

~~e. 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, a confidential intermediary must obtain documentation of attendance or completion from the sponsoring entity that must include at least all of the following:~~

~~g. Name of the sponsor;~~

~~h. Name of the participant;~~

~~i. Topic of the subject matter;~~

~~j. Number of hours actually attended or the number of credit hours awarded by the sponsoring entity;~~

~~k. Date and place of the program; and~~

~~l. Signature of the sponsor or an official document from the sponsoring entity.~~

~~10. Compliance and Non-Compliance.~~

~~a. Affirmation of Compliance. A confidential intermediary must affirm continuing education compliance when applying for renewal of certification. The affirmation must be in the format provided by the division.~~

~~b. Proration of Continuing Education.~~

~~(1) A confidential intermediary initially certified between September 1 of an odd-numbered year and March 31 of the following even-numbered year must complete a total of six hours of continuing education, including at least one hour of ethics. In subsequent certification periods, the confidential intermediary must meet the requirements in (L)(2).~~

~~(2) A confidential intermediary initially certified between April 1 and August 31 of an even-numbered year must complete three hours of continuing education, including at least one hour of ethics. In subsequent certification periods, the confidential intermediary must meet the requirements in (L)(2).~~

~~(3) A confidential intermediary initially certified between September 1 of an even-numbered year and August 31 of the following odd-numbered year who, before~~

~~their initial certification but during this period, completed activities that would qualify as continuing education hours under subsection (L) if completed by a licensee, may apply those hours toward the continuing education requirements for the first renewal of certification.~~

~~(4) These proration of continuing education provisions do not apply to a confidential intermediary who previously held certification, allowed the certification to lapse, and was subsequently granted certification during the renewal period.~~

~~e. 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 later than August 31 of the even-numbered year, the confidential intermediary must submit an affirmation to the board stating the facts and circumstances negatively impacting the confidential intermediary's ability to fully comply with the continuing education requirements for that period and requesting an extension or waiver of the requirements before the end of the August 31<sup>st</sup> continuing education period. On a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the confidential intermediary to complete the continuing education requirement.~~

~~(2) The board must determine whether extenuating circumstances exist. In reviewing the request, the board 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 certification period;~~

~~(b) An incapacitating illness documented by a statement from a currently licensed physician treating the confidential intermediary;~~

~~(c) A physical inability to obtain 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) A confidential intermediary whose certificate has been suspended or revoked by the board is not eligible to request a waiver or extension of the continuing education requirement.~~

~~d. The board or the division may request documentation or additional information from a confidential intermediary applying for renewal to verify compliance with the continuing education requirements. If the confidential intermediary fails to provide the requested documentation or additional information, the board may deem the application for renewal incomplete and deny renewal of certification.~~

~~e. Random Audits of Continuing Education Compliance. During each renewal review period, the division must randomly select at least 10% of confidential intermediary renewal applications to demonstrate continuing education requirement compliance. Refusal or failure to respond to a request from the board or the division for audit~~

~~documentation of continuing education compliance may result in denial of renewal of certification or disciplinary action under ACJA § 7-201 and this section.~~

~~f. A confidential intermediary who fails to complete the continuing education requirement, completes any portion of the continuing education requirement late, 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; and~~
- ~~(3) Disciplinary action under ACJA § 7-201(H) and this section.~~

~~10. Board Decision Regarding Continuing Education Compliance.~~

~~a. Upon a review of continuing education documentation and any applicable additional information requested, the board may:~~

- ~~(1) Recognize the confidential intermediary's compliance with the continuing education requirement;~~
- ~~(2) Require additional information from the confidential intermediary 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. The division 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 division within 15 days of receipt of notification of the board's decision. The confidential intermediary 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 will continue active until a final decision is made by the board.~~

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

~~**M. Client Fee Schedule.** Under the supreme court's authority to administer the confidential intermediary and sibling information exchange programs, a confidential intermediary may not charge clients fees 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, including any initial review and~~

~~consultation related to search services.)~~

~~2. Investigation/Research Hourly Rate \_\_\_\_\_ \$100.00~~

~~3. Bookkeeping/Travel Hourly Rate \_\_\_\_\_ \$ 50.00~~

~~4. Direct Costs and Expenses Billable at Rates Incurred~~

~~(Mileage billed may not exceed the current Arizona Department of Administration General Accounting Office personal vehicle mileage reimbursement rate published in the State of Arizona Accounting Manual.)~~

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 7: Administrative Office of the Courts**  
**Chapter 2: Certification and Licensing Programs**  
**Article 3: Confidential Intermediary**  
**Section 7-203: Scope**

Together with Article 1, this Article 3 governs the application, certification, and renewal process; the complaint and disciplinary process; and the administrative hearing process for confidential intermediaries. Under ACJA § 7-201, the provisions of Article 1 govern the confidential intermediary and sibling information exchange programs unless this article provides to the contrary, in which case the provisions of this article govern.

**Section 7-203.01: Definitions**

In addition to the definitions in the Arizona Code of Judicial Administration (ACJA) § 7-201.01, the following definitions apply to this article governing confidential intermediaries:

“Adoptee” means an individual, eligible for adoption under A.R.S. §§ 8-102 and 14-8101, who has been adopted.

“Adoption triad” means the adoptee, the adoptive parents, and the birth parents.

“Agency” means a person licensed by the department of child safety to place children for adoption, including an attorney or law firm, as defined in A.R.S. § 8-101(2).

“Child” means an individual under age 18 under A.R.S. § 8-101(4).

“Client” means a qualified individual.

“Confidential intermediary” means an individual who meets and maintains the requirements for certification under this chapter and A.R.S. § 8-134, possesses a valid confidential intermediary certificate issued by the supreme court, and is authorized to serve as a post-adoption liaison and access confidential information necessary to facilitate contact between adoption triad members under A.R.S. § 8-134 and between siblings separated by a dependency action under A.R.S. § 8-543.

“Former dependent child” means, under A.R.S. § 8-501(4), an individual who was previously adjudicated a dependent child in a dependency proceeding that has been dismissed by the juvenile court.

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

“Qualified individual” means an individual listed in A.R.S. § 8-134(A) as eligible to use the services of a confidential intermediary listed with the court or a person eligible under A.R.S. § 8-543(B) to participate in the sibling information exchange program.

“Search” means the process initiated by a qualified individual and ordered by a court in which a confidential intermediary may inspect records including court, department of child safety, agency, and maternity home records about an adoption to locate information about an individual who is the subject of the search.

“Sibling” includes individuals who share a common biological parent, stepparent, or adoptive parent under A.R.S. § 8-543(F).

“Sibling Information Exchange Program (SIX)” means the program authorized under A.R.S. § 8-543, and administered by the supreme court, to provide former dependent children the ability to locate, and stay in touch with, siblings separated by a dependency action with the assistance of a confidential intermediary.

### **Section 7-203.02: Jurisdiction**

#### **A. Authority.**

1. Confidential intermediary program. Under A.R.S. § 8-134(I), the supreme court administers the confidential intermediary program and adopts the rules and procedures for implementing the program, including those establishing confidential intermediary qualifications; required fees; minimum standards for certification, training, and conduct; and the amounts that a confidential intermediary may charge.
2. Sibling information exchange program.
  - a. Under A.R.S. § 8-543(A), the supreme court’s administrative office of the courts establishes the sibling information exchange program.
  - b. Under A.R.S. § 8-543(E), the supreme court adopts the rules necessary for the program’s implementation.

**B. Purpose.** Together with Article 1, this section is intended to provide for the certification of confidential intermediaries and the effective administration of the confidential intermediary and sibling information exchange programs.

### **Section 7-203.03: Administration**

**A. Supreme Court.** The supreme court administers the confidential intermediary program through its administrative office of the courts, certification and licensing division.

**B. Fund.** The division must deposit all fees collected in administering the confidential intermediary program and the sibling information exchange program in the confidential intermediary and fiduciary fund established under A.R.S. § 8-135(A).

### **Section 7-203.04: Confidential Intermediary Board**

- A. Duties.** The confidential intermediary board exercises the authority and has the duties stated in ACJA § 7-201.04(D) and whenever board action is required under this chapter.
- B. Composition.** The confidential intermediary board has 7 members, as follows:
1. Three certified confidential intermediaries who have been confidential intermediaries for at least 3 years;
  2. One superior court judicial officer or trial court administrator;
  3. One attorney, with at least 5 years of experience in adoption law, or 1 adoption agency-related representative;
  4. One public member; and
  5. One additional member appointed by the chief justice.
- C. Meetings.** The board must hold regular meetings at least once each year.

### **Section 7-203.05: Initial Certification**

**A. Certification.**

1. **Requirement.** Individuals must be certified by the supreme court to act as confidential intermediaries authorized to conduct adoption triad member searches under A.R.S. § 8-134 and to assist siblings separated by a dependency action under A.R.S. § 8-543.
2. **Exemption.** Under A.R.S. § 8-134(B), the department of child safety and adoption agencies licensed by the state may serve as confidential intermediaries without certification by the supreme court.

**B. Requirements.**

1. **Personal qualifications.** A candidate for confidential intermediary certification must satisfy the personal qualification requirements under ACJA § 7-201.09(B).
2. **Application.** Candidates for confidential intermediary certification must file a completed application in compliance with ACJA § 7-201.10(B)(1)-(5), including:
  - a. Payment of the application fee specified in ACJA § 7-203.10(A)(1);
  - b. Submission of the required photograph under ACJA § 7-201.10(B)(3); and

- c. Compliance with the fingerprint requirement, and payment of the applicable fee for obtaining the applicant's criminal history records, under ACJA §§ 7-201.10(B)(3) and 7-203.10(A)(2).
3. Initial Training. Applicants for initial certification must request and complete an initial training that includes a live training component.
    - a. The division must make initial training for confidential intermediary applicants available at least once each year.
    - b. The training must include information or instruction in:
      - (1) The Sibling Information Exchange (SIX) program;
      - (2) The confidential intermediary search process;
      - (3) Ethics;
      - (4) The initial certification and renewal process;
      - (5) The complaint, investigation, and disciplinary processes; and
      - (6) Accessing court and agency records.
  4. Examination. An applicant must pass an examination administered by the division as part of the initial training.
- C. Board Decision.** The process for the board's consideration of applications and for granting or denying initial certification is governed by ACJA § 7-201.13.

### **Section 7-203.06: Continuing Education**

**A. Purpose.**

1. This section's continuing education requirement is one way to ensure a confidential intermediary maintains competence to provide services post-certification—and remains current on changes in the profession and the Arizona judicial system.
2. This section is intended to:
  - a. Ensure compliance with applicable rules, statutes, and this chapter; and
  - b. Provide for even-handed application and enforcement of the continuing education requirements.

**B. Continuing Education Requirement.** A certified confidential intermediary must comply with the continuing education requirement to obtain renewal of their certification.

1. General requirement. A certified confidential intermediary must complete at least 12 hours of qualified continuing education during the 2-year continuing education period between

September 1 of each even-numbered year and August 31 of the next even-numbered year, as follows:

- a. Half of the total hours required must be earned in each year of the 2-year certification period. A certified confidential intermediary must complete 6 qualified continuing education hours during each 12-month period between September 1 of each calendar year and August 31 of the next calendar year.
  - b. At least 1 hour of the 6 hours earned each year must be in ethics.
2. Non-transferable.
- a. Continuing education hours may only be applied to satisfy the 6-hour requirement for the 12-month period in which hours were earned.
  - b. Excess continuing education hours completed in a 12-month period are not transferable to any other 12-month period.
3. Special rules during initial certification period.
- a. Pre-certification hours. During a confidential intermediary's initial certification period, they may use qualified continuing education hours earned before their initial certification to satisfy the continuing education requirement if all the following apply:
    - (1) The confidential intermediary was initially certified between September 1 of an even numbered-year and August 31 of the following odd-numbered year;
    - (2) The continuing education hours completed before initial certification were completed between September 1 of an even numbered-year and August 31 of the following odd-numbered year;
    - (3) The continuing education hours completed before initial certification would qualify as continuing education hours if completed after certification; and
    - (4) The confidential intermediary's initial certification does not follow a prior certification that lapsed without renewal.
  - b. Modification; initial year of certification. The continuing education requirement for the initial certification period of a confidential intermediary who was initially certified after September 1 of an odd-numbered year is adjusted under the following circumstances:
    - (1) A confidential intermediary initially certified during the 7-month period between September 1 of an odd-numbered year and March 31 of the immediately following even-numbered year must complete a total of 6 hours of continuing education during that 7-month period, including at least 1 hour of ethics.
    - (2) A confidential intermediary initially certified in the 5-month period between April 1 and August 31 of an even-numbered year must complete 3 hours of continuing education during that 5-month period, including at least 1 hour of ethics.

- c. Following renewal of initial certification, the confidential intermediary must comply with the general requirement under (B)(1).

### **C. Compliance.**

1. Responsibility. Confidential intermediaries are responsible for monitoring their own compliance with the continuing education requirements, including maintaining documentation of continuing education hours completed during each 12-month period.
2. Documentation. Confidential intermediaries must obtain documentation about their continuing education activities from the sponsor of the program, including documentation of:
  - a. The sponsor's name;
  - b. The name, date, and location of the program;
  - c. The confidential intermediary's registration as an attendee;
  - d. The program's subject matter and content, including materials provided to attendees;
  - e. The program's agenda or schedule showing time allotted to introductory remarks, breaks, meals, and business meetings;
  - f. The confidential intermediary's "actual clock time" for the activity and, if different from the "actual clock time," the number of credit hours awarded by the sponsoring entity for full attendance; and
  - g. The signature of the sponsor or an official document issued by the sponsor signifying the confidential intermediary's completion of the program.
3. Reporting.
  - a. With renewal application. When applying for certification renewal, a confidential intermediary must affirm continuing education compliance for the ending certification period using the format directed by the division.
  - b. On request, a confidential intermediary must provide additional information about continuing education compliance as requested by the board or division in connection with a renewal application or continuing education documentation, including documentation about continuing education compliance in a prior licensing period.
4. Review and decision.
  - a. Findings. After reviewing continuing education documentation and any applicable

additional information requested, the board may:

- (1) Find compliance with the continuing education requirement;
  - (2) Require additional information from the confidential intermediary seeking renewal before making a decision;
  - (3) Find partial compliance with the continuing education requirement and order remedial measures; or
  - (4) Enter a finding of non-compliance.
- b. Notice. Within 10 days of the board's decision, the division must give the confidential intermediary written notice of the board's decision and the reasons for the decision.
- c. Review and decision.
- (1) If the board finds full or partial non-compliance with the continuing education requirements:
    - (a) Within 15 days after the date of written notice of the board's decision, the confidential intermediary may submit a written request for board review in the manner required for requests under ACJA § 7-201.28(A)(2).
    - (b) A request for board review includes a request to address the board in response.
    - (c) By making a request to address the board, the confidential intermediary also agrees to respond to board questions under oath or affirmation at the board meeting.
    - (d) Upon receiving a timely request for review, the division must notify the board chair of the need to place the matter on the board's agenda.
  - (2) There is no review of a request for additional information.
  - (3) Upon submission of a timely request for review, the confidential intermediary's existing license does not expire during board review if the board decision concerns compliance with the license renewal requirements.
  - (4) After hearing from the confidential intermediary and reviewing its decision, the board must issue a written, final decision.

#### **D. Qualified Continuing Education Activity.**

1. Subjects. Continuing education activity must:
  - a. Address areas of proficiency, competency, and performance of a confidential intermediary; and
  - b. Convey knowledge and increase understanding of the profession, search techniques, ethics, code of conduct, Arizona court jurisdiction, the role of courts and judges, the Arizona tribal court system, cultural issues, administrative matters, adoption, the adoption triad, and dependency.

## 2. Activities.

- a. **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 satisfy all 6 hours of that year's continuing education at the conference if the requirements of this section are satisfied, including the "actual clock time," 1-hour ethics, and documentation requirements.
- b. **Educational institutions.** A confidential intermediary may receive no more than 50% of the total number of continuing education credit hours in each 12-month continuing education period by achieving a passing grade in ~~for~~a course provided by a university, college, or other accredited educational institution if the course is relevant to the confidential intermediary profession, adoption, adoption searches, or a related field. A passing grade is a "C" or better or a grade of "pass" in a pass/fail grading system. The amount of continuing education credit is determined by multiplying the number of credit hours awarded by the educational institution by 2.
- c. **Authoring or coauthoring articles.** A confidential intermediary may receive up to 1 hour of continuing education credit in each 12-month continuing education period for authoring or coauthoring an article of at least 1,000 words on the subjects of adoptions, adoption searches, the adoption triad, or dependency if the article is published in a state or nationally recognized professional journal. A confidential intermediary may only receive credit for 1 publication of an article.
- d. **Self-Study.** A confidential intermediary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. A confidential intermediary will not receive more than 50 % of the total number of continuing education hours required in a 12-month continuing education period through self-study. The remaining hours must be earned through instruction by 1 or more faculty or facilitators to an individual or a group using real-time interaction ("live training").
- e. **Teaching.**
  - (1) A confidential intermediary may receive up to 6 hours of continuing education credit in each 12-month continuing education period for serving as an instructor, speaker, panelist, or faculty member of an instructional seminar directly related to the confidential intermediary profession as follows:
    - (a) A confidential intermediary may receive continuing education credit for the presentation time; and
    - (b) The confidential intermediary may also receive up to 2 hours of actual preparation time for each hour of original presentation time.
  - (2) For subsequent presentations, a confidential intermediary:
    - (a) Will not receive duplicate credit for subsequent presentations of the same

program during the same 12-month certification period.

- (b) May receive continuing education credit for actual presentation time for duplicate programs presented in a different 12-month continuing education period but will not receive continuing education credit for preparation time for those duplicate programs.

5. Eligible Time.

a. Calculation.

- (1) The time in attendance at a qualified education activity that may be counted to satisfy a confidential intermediary's continuing education requirement is the "actual clock time."
- (2) "Actual clock time" is the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings.
- (3) After completion of the first 30 minutes of "actual clock time," credit is earned in 15-minute increments or 0.25 hours.

b. Minimum time. A confidential intermediary may receive continuing education credit for qualified activity only if it consists of at least 30 minutes or 0.5 hours of "actual clock time" attended by the confidential intermediary.

c. Maximum credit. A confidential intermediary will not receive more than 3 hours of continuing education credit through any single continuing education activity in a 12-month continuing education period unless approved by the board as directly related to the confidential intermediary profession.

**E. Non-Qualifying Activities.** The following activities do not qualify for continuing education credit for confidential intermediaries:

- 1. Programs or training completed to qualify for initial certification;
- 2. Mentoring activities;
- 3. Attending or participating in professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation;
- 4. Serving on committees or councils or as an officer in a professional organization;
- 5. Completing activities required by the board as part of disciplinary action;
- 6. Repeating a qualified continuing education activity within the same 12-month continuing education period; and
- 7. Attending part, but not all, of a continuing education activity.

- F. Extension or Waiver.** A confidential intermediary seeking renewal of certification who has not fully complied with the continuing education requirement may request an extension or waiver of the continuing education requirement for up to 90 days on a showing of extenuating circumstances under this section instead of ACJA § 7-201.07(B).
1. A confidential intermediary seeking an extension or waiver of all or part of the continuing education requirement must file a request for an extension or waiver with the division no later than the August 31 close of the continuing education period for which the extension or waiver is sought.
  2. A written request for an extension of time to comply with the continuing education requirement or a waiver of the requirement for the 12-month continuing education period must:
    - a. Include a detailed explanation of the facts supporting a finding of the extenuating circumstances that negatively impact the confidential intermediary's ability to fully comply with the continuing education requirements for that period;
    - b. Be signed and dated by the confidential intermediary; and
    - c. Include, immediately above the confidential intermediary's signature, the following statement: "I, [printed name of confidential intermediary], affirm that my statements and the information in my request for extension or waiver are true and correct and this information under penalty of perjury."
  3. The division must review the written request and make a recommendation to the board.
  4. In determining whether extenuating circumstances exist to support a requested extension or waiver of the continuing education requirement, the board must consider whether the confidential intermediary has been unable to devote sufficient hours to fulfill the continuing education requirement during the current 12-month certificate period because of:
    - a. Full-time service in the armed forces of the United States during a substantial part of the certification period;
    - b. An incapacitating illness documented by a statement from a currently licensed physician treating the confidential intermediary;
    - c. A physical inability to obtain 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.
  5. If the board finds the confidential intermediary has demonstrated extenuating circumstances, the board may, as it finds appropriate under the circumstances:

- a. Grant a one-time extension of up to 90 days for the confidential intermediary to complete the continuing education requirement; or
  - b. Waive all or part of the continuing education requirement for the 12-month continuing education period under specified terms and conditions.
6. A confidential intermediary whose certificate is under restriction or has been suspended or revoked by the board is not eligible to request a waiver or extension of the continuing education requirement.

**G. Random Compliance Audits.** The division may randomly select at least 10% of confidential intermediary renewal applications to audit compliance with the continuing education requirement. A confidential intermediary's failure to respond to, or refusal to comply with, a continuing education compliance audit-related request from the board or division may result in denial of renewal of certification or disciplinary action.

**H. Failure to Comply.** A confidential intermediary who fails to complete any portion of the continuing education requirement by the deadline, falsifies documents, or misrepresents attendance or an activity is subject to denial of license renewal and disciplinary action and sanctions under ACJA § 7-201.30, including assessment of the delinquent continuing education fee under ACJA § 7-203.11(C)(5).

#### **Section 7-203.07: Certification Renewal**

**A. Authority.** Renewal of confidential intermediary certification is governed by ACJA § 7-201.19 and this section.

**B. Timing.**

1. Expiration date. Confidential intermediary certificates expire at midnight on October 31 of each even-numbered year.
2. Timely filing. By timely filing a complete certification renewal application, the confidential intermediary's existing certificate does not expire during the renewal process. A confidential intermediary's renewal application is timely if filed with the division from September 1 through September 30 of each even-numbered year.

**C. Renewal Application.** In addition to completing the renewal application form specified by the division, the following requirements apply to confidential intermediary certification renewal applications.

1. Late fee. The late fee under ACJA 7-203.11(K)(3)(e) must be paid:
  - a. When a confidential intermediary files an untimely renewal application under ACJA § 7-203.06(C)(3).

- b. When a confidential intermediary files a renewal application after their certificate expires.
2. Continuing Education. A certified confidential intermediary must affirm continuing education compliance under ACJA § 7-202.13 when applying for renewal of certification.

### **Section 7-203.08: Code of Conduct**

**A. Applicability.** The Confidential Intermediary Code of Conduct is the minimum standard of performance for confidential intermediaries adopted by the supreme court.

**B. Compliance.**

1. A confidential intermediary must comply with this section in addition to ACJA § 7-201.20.
2. Violation of the Confidential Intermediary Code of Conduct is grounds for discipline under ACJA § 7-201.21(A)(2), (A)(3), and (B)(14).

**C. Performance Standards.**

1. Requirement. A confidential intermediary must perform all services and discharge all obligations according to the requirements imposed on confidential intermediaries under this section, this chapter, Arizona and federal laws, and court orders, including administrative orders issued by the supreme court.
2. Identification. When accessing files related to a search, a confidential intermediary must provide the valid photo identification issued by the confidential intermediary program.
3. Parties. A confidential intermediary may provide services only to qualified individuals.
4. Finalization report.
  - a. A confidential intermediary must file a finalization report with the division within 45 days of:
    - (1) Every completed search; and
    - (2) When the confidential intermediary is no longer providing search services to a qualified individual.
  - b. A finalization report must include:
    - (1) A copy of any consent or refusal documents;
    - (2) Documentation of any consultation or mentoring agreement;
    - (3) A copy of the file review statement; and
    - (4) A summary report of the search process and outcome.

5. Withdrawal.

a. From a search. A confidential intermediary may withdraw from a search for any reason by filing with the division:

- (1) A notice of withdrawal for that search on a form provided by the division.
- (2) A finalization report under (5)(b) for each case in which the confidential intermediary withdraws.

b. After voluntary surrender or transfer to inactive status. A confidential intermediary who voluntarily surrenders their certificate under ACJA § 7-201.16 or transfers to inactive status under ACJA § 7-201.17 must:

- (1) Submit the (5)(a)(1) notice of withdrawal for each of the confidential intermediary's open searches;
- (2) Provide a copy of the notice of withdrawal to each affected client; and
- (3) Submit a finalization report under (4) for each of the confidential intermediary's open searches.

6. Records Retention. A confidential intermediary must maintain all search-related documentation, including receipts, for every search for at least 5 years.

7. Confidentiality.

a. The confidential intermediary must exercise the highest degree of care and diligence in respecting the privacy and confidentiality of all parties in a search.

b. Under A.R.S. § 8-134 and A.R.S. § 8-543, the confidential intermediary may only use confidential information obtained during a search to:

- (1) Arrange a contact between the person who initiated the search and the person who is the subject of the search; and
- (2) Share information between the person who initiates the search and the person who is the subject of the search.

c. The confidential intermediary must maintain records in a professional manner that protects the confidentiality of information contained in the records.

d. A confidential intermediary may consult with another confidential intermediary on a case-by-case basis and disclose only the case information necessary for the specific purpose of soliciting ideas or information to assist the confidential intermediary in carrying out a search.

- (1) The case finalization report must clearly disclose the use of any consulting confidential intermediary.
- (2) The confidentiality restrictions under this section apply to both the confidential intermediary conducting the search and the consulting confidential intermediary.

- e. A confidential intermediary may act as a mentor to assist a less experienced confidential intermediary. The inexperienced confidential intermediary and the mentoring confidential intermediary may share confidential information as necessary for the purpose of instruction, to increase the inexperienced confidential intermediary's skill level, and to increase the likelihood of a successful search.
  - (1) If the inexperienced confidential intermediary is conducting the search, the case finalization report filed by the inexperienced confidential intermediary must clearly disclose the use of any mentoring confidential intermediary.
  - (2) If the mentoring confidential intermediary is conducting the search, the case finalization report filed by the mentoring confidential intermediary must clearly disclose the use of any inexperienced confidential intermediary.
  - (3) The confidentiality restrictions under this section apply to both the mentoring confidential intermediary and the inexperienced confidential intermediary.

8. Searches.

a. Duties. A confidential intermediary must:

- (1) Determine that the client requesting a search is a qualified person.
- (2) Conduct each search using efforts appropriate to the case.
- (3) Perform a diligent and expedient search in any court-ordered medical search.
- (4) In searches other than court-ordered medical searches, use the degree of diligence required by the agreement between the confidential intermediary and the client.
- (5) Review court records to determine whether a party filed an affidavit consenting to or blocking contact and act accordingly.
- (6) Comply with the Arizona laws relating to adoption, including those limiting the release of information.
- (7) After locating a sought-after party:
  - (a) Disclose to the client and located party only that information relevant to the physical safety and protection of the parties and their families as is necessary to allow the client and located party to make an informed decision about whether to consent to the release of identifying information.
  - (b) Present information relevant to the physical safety and protection of the parties and their families in a nonjudgmental manner.

b. Prohibitions. A confidential intermediary must not:

- (1) Remove adoption case records or sibling information records from agency or court files.
- (2) Falsify or alter records.

9. Skills and Knowledge. A confidential intermediary must:

- a. Have the skills and knowledge necessary to perform the work of a confidential intermediary.
- b. Maintain compliance with the continuing education requirement under ACJA § 7-

203.06.

- c. After obtaining certification, maintain competence in the field and ensure that their knowledge of all laws about adoption and sibling information exchange remains current.
- d. Maintain a working knowledge of documents and information customarily found in court and agency files.
- e. Possess the verbal and written communication skills necessary to perform the confidential intermediary role, including the skills necessary to effectively communicate in person, by telephone, and by email and other forms of correspondence.
- f. Efficiently manage each case and skillfully perform searches, make contacts, maintain records, and discharge cases in a timely fashion.

10. Communications. A confidential intermediary must:

- a. Keep the client reasonably informed about the status of their search.
- b. Promptly comply with reasonable requests for information.
- c. Prepare complete, accurate, and understandable reports, including finalization reports.

11. Reasonable charges.

- a. A confidential intermediary may only charge those fees and expenses reasonably and necessarily incurred in conducting the search and providing authorized services.
- b. A confidential intermediary may charge a client for the following fees and expenses:
  - (1) A one-time, set-up fee of up to \$100.00 for activities preliminary to search services, including any initial review and consultation related to search services.
  - (2) A fee of up to \$100.00 per hour for investigation and research services.
  - (3) A fee of up to \$50.00 per hour for bookkeeping or travel time.
  - (4) If the confidential intermediary incurred costs and expenses specific to a search, the confidential intermediary may charge the client the amount incurred without any mark-up.
  - (5) The amount of mileage billed must not exceed the current Arizona Department of Administration General Accounting Office personal vehicle mileage reimbursement rate published in the State of Arizona Accounting Manual.
- c. The confidential intermediary must return to the client all fees collected in advance but not earned.

12. Sensitivity and Professionalism.

- a. The confidential intermediary 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 a search, and must exhibit an ability to:
  - (1) Empathize with others;
  - (2) Be discreet in dealing with confidential information;
  - (3) Navigate the emotions of adopted individuals, adoptive parents, birth parents, and former dependent children involved in the search and reunion process; and
  - (4) Inform the parties of the availability of resources for support.
- b. The confidential intermediary must strive to develop professional objectivity regarding biases, attitudes, and beliefs about adoption, reunion, and sibling information exchange issues.
- c. The confidential intermediary must demonstrate the ability to work with individuals regardless of their culture, ethnicity, religion, sexual orientation, or lifestyle.
- d. The confidential intermediary must not use materials or employ methods inconsistent or in conflict with the role of a confidential intermediary or for the confidential intermediary's personal benefit.
- e. Even if a confidential intermediary is otherwise qualified to do so, a confidential intermediary must not assume the role of a therapist, counselor, or advocate when acting as a confidential intermediary but may provide educational information.
- f. The confidential intermediary must not offer or provide legal advice when acting as a confidential intermediary.
- g. A confidential intermediary must not engage in conduct that would reflect adversely on the judiciary, the courts, or other agencies involved in the administration of justice.

13. Ethics.

- a. The confidential intermediary must conduct themselves according to the highest standards of trust, impartiality, and respect in performing services.
- b. The confidential intermediary must perform services in a manner consistent with legal and ethical standards.
- c. The confidential intermediary must not assume the role of advocate or use coercion or undue influence to persuade any party to a search to take or not take any action.
- d. A confidential intermediary must recognize any limits on their knowledge, abilities, and experience and seek necessary guidance from written authorities or other experienced confidential intermediaries under (7)(d). A confidential intermediary remains responsible for decisions made in any case in which another confidential

intermediary is consulted.

- e. The confidential intermediary 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 must not misrepresent any circumstances or information specific to a case to any client or any party located.
- f. The confidential intermediary must not utilize certification in any manner to gain access to information or services for purposes other than those of the confidential intermediary program.

14. Conflict of interest.

- a. The confidential intermediary must avoid any conflict of interest or the appearance of a conflict of interest by not accepting a search request, continuing work on a search request, or otherwise serving as a confidential intermediary, including when:
  - (1) A case involves a relative, business associate, or close friend if the relationship is such that the relative, business associate, or close friend may exert undue pressure on the confidential intermediary; or
  - (2) The confidential intermediary cannot act in an objective manner or perform services as required.
- b. The confidential intermediary 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.
- c. For purposes of this provision, "conflict of interest" means the circumstance where a confidential intermediary's search for a qualified individual may benefit or harm a personal, business, or employment interest of the confidential intermediary or their relative, business associate, or close friend or where the confidential intermediary's professional judgment is compromised.

**Section 7-203.10: Fee Schedule**

**A. Initial Certification Fees.**

1. Individual Application Fee.

- a. For certification expiring more than 1 year after application date \$100.00
- b. For certification expiring less than 1 year after application date \$ 50.00

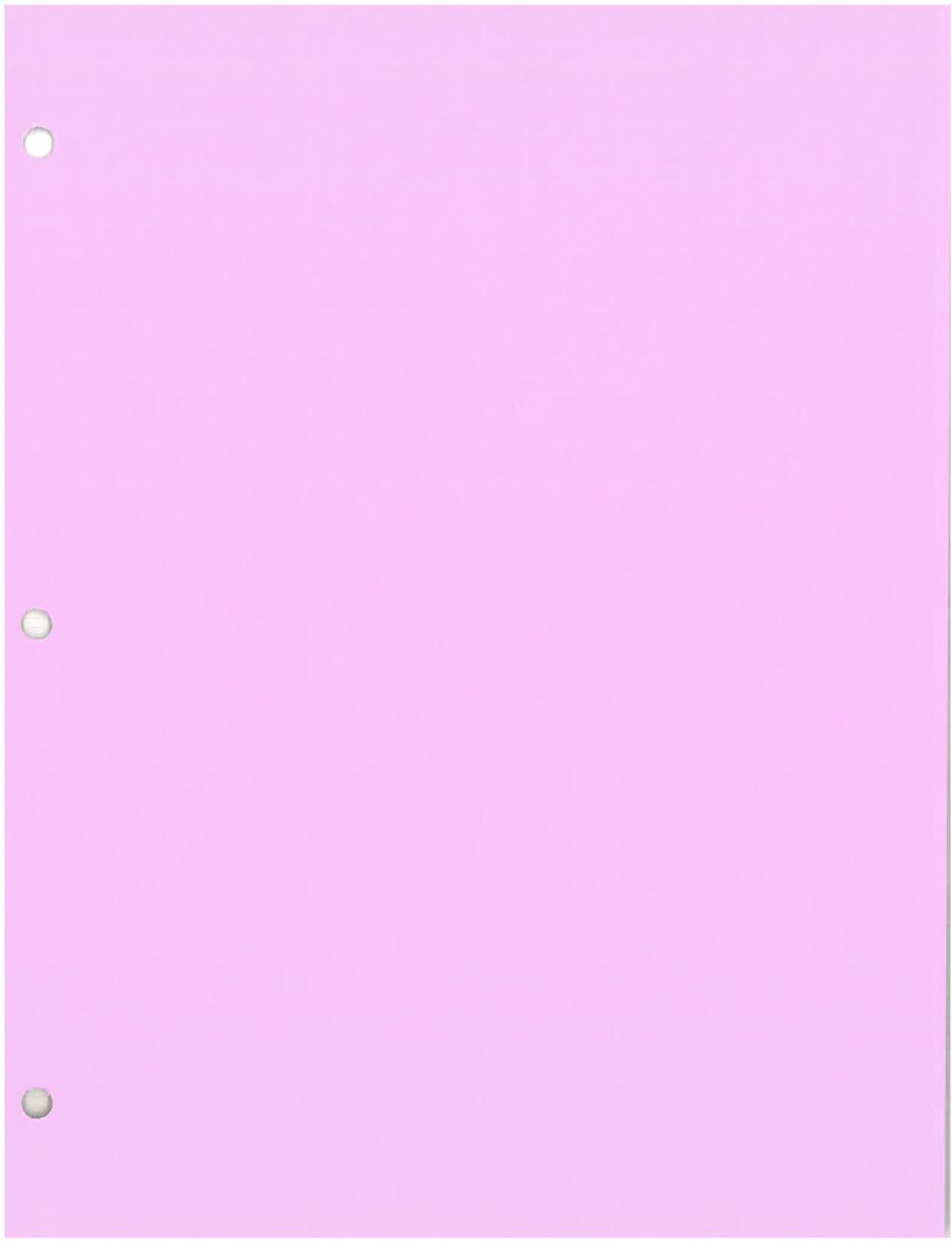
2. Fingerprint Application Processing Fee

(Rate as set by Arizona law and subject to change.)

3. Initial Training: Live Training Component	\$100.00
4. Government Agency Initial Certification	\$ 0.00
(The initial certification fee is waived for all designated agency representatives and agency individuals seeking initial certification, but these applicants are required to pay the fees for training and fingerprinting.)	
<b>B. Examination Fees.</b>	
1. Applicants for Initial Certification	\$100.00
2. Reexaminations	\$100.00
(For any applicant who did not pass the examination on the first attempt. The \$100.00 fee applies to each reexamination.)	
3. Reregistration for Examination	\$100.00
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)	
4. Online Exam Administration-Remote Proctoring	
(Set by the Administrative Director, Administrative Office of the Courts.)	
<b>C. Certificate Renewal.</b>	
1. Individual Certificate Renewal	\$100.00
2. Governmental Agency Certificate Renewal	\$ 0.00
(The renewal certification fee is waived for all designated agency representatives and agency individuals seeking renewal of certification.)	
3. Late Renewal	\$100.00
4. Inactive Status	\$ 50.00
5. Delinquent Continuing Education	\$100.00
<b>D. Miscellaneous Fees.</b>	
1. Replacement of Certificate, Badge or Name Change	\$ 50.00
2. Public Record Request per Page Copy	\$ 0.50
3. Certificate of Correctness of Copy of Record	\$ 18.00
4. Reinstatement Application	\$100.00

(Application for reinstatement to certification after suspension or revocation of certification.)

- 5. Initial Training Manual for Purchase Separately from Certification \$ 75.00



## 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>
June 19, 2026	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA § 1-202 Public Meetings + 13 other code sections

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**FROM:** AOC Executive Office, Jeff Schrade, Deputy Director

**DISCUSSION:** “Quorum” has been defined in slightly different ways in the code sections, court rules, and administrative orders establishing public councils. This proposal seeks to establish a consistent definition of “quorum” to be used by all public councils established through the code, court rule, or administrative order or established by a statute that provided for the Supreme Court to appoint members and adopt rules. The proposal includes conforming changes to the definitions of “Public council” and “Meeting.”

The proposal also includes amendments to the following code sections to replace definitions of “quorum” with a reference to the definition in ACJA § 1-202:

- Section 1-104: Judicial Council
- Section 1-105: Committee on Superior Court
- Section 1-106: Committee on Limited Jurisdiction Courts
- Section 1-107: Commission on Diversity, Equality, and Justice in the Judiciary
- Section 1-108: Committee on Judicial Education and Training
- Section 1-109: Commission on Technology
- Section 1-110: Committee on the Impact of Domestic Violence and the Courts
- Section 1-111: Commission on Victims in the Courts
- Section 1-112: Committee on Family Court
- Section 1-113: Arizona Commission on Access to Justice
- Section 5-104: Alternative Dispute Resolution
- Section 6-114: Committee on Probation
- Section 6-303: Committee On Juvenile Courts
- Note: Section 7-201: General Requirements concerning CLD’s programs will also include a reference to the definition of quorum in § 1-202, effective July 1, 2026.

**RECOMMENDED COUNCIL ACTION:** It is recommended that AJC recommend adoption of the proposed revisions to ACJA § 1-202 and the 13 referenced code sections with an immediate effective date.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 2: Operations**  
**Section 1-202: Public Meetings**  
*[Added text is shown underlined, deleted text by ~~strikethrough~~]*

**A. [No change]**

**B. Definitions.** In this section, the following definitions apply:

“Public council” means any council, commission, board, or committee established by this code, court rule, or administrative order that includes any public members or members who are judges or employees of different courts or established by a statute that provides for the supreme court to appoint members and adopt rules.

“Meeting” means gathering of a quorum ~~the majority~~ of the members of a public council, whether in person or electronically, for the purpose of discussing or conducting public council business other than an adjudicatory hearing conducted by a public council.

“Legal advice” means communication to the public council by an attorney employed by or representing any Arizona court regarding facts and information that have legal ramifications, the legality of various legal options, a recommended course of action, and response to any questions about the communication.

“Quorum” means the majority of the public council then-appointed and eligible to vote.

**C. Procedures.**

1. Meeting Notice.

a. Posting. Public council staff shall post meeting notices in the state courts building in a public area and on the Arizona Supreme Court internet site maintained by the AOC Administrative Office of the Courts at least 48 hours prior to a meeting. Public council staff shall send additional notice of a meeting held in a county other than Maricopa to the clerk of the court of that county for posting at each location of the superior court in that county at least 48 hours in advance of the meeting. Notice of an emergency meeting shall be provided in these locations as soon as possible after the meeting location, time, and agenda are established.

b. Content. A notice shall identify the public council and the date, time, and location of the meeting, specifying the name of the building, street address, and room number where the meeting is located. The notice shall identify a person or an office to contact to obtain a copy of the meeting agenda. The notice shall include the following statement: "Persons with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting (name of contact person) at (address, telephone, text telephone number). A person requesting an accommodation should make the request as early as possible to allow time to arrange the accommodation. (See sample notice, Appendix 1.)

2. Meeting Agenda.

a. and b. [No change]

c. Adherence. All public councils shall adhere to the published meeting agenda unless by

majority vote the public council determines:

- (1) Deviation from the agenda is necessary to address a matter that the public council and staff could not have reasonably anticipated; ~~and~~
  - (2) Delaying the matter until the next meeting would be detrimental to the work of the public council and the interests of the public; ~~and~~
  - (3) Addressing the matter without public notice would not significantly impair public awareness of the matter.
3. **Public Comment.** All agendas shall include a "Call to the Public" provision prior to meeting adjournment. The chair of the public council shall announce the opportunity for public comment regardless of whether a member of the public is in attendance or has expressed any desire to comment. The chair may impose reasonable time, place and manner limitations upon meeting participants, including setting time limits, banning repetition, and prohibiting profanity and disruptive behavior.
4. [No change]
5. **Executive Sessions.** Upon a call by the chair or a majority vote of the members constituting a quorum, a public council may hold an executive session but only for the purposes stated below. The chair shall announce the general subject of the executive session and the specific provision of this rule authorizing the executive session without breaching confidentiality. Attendance shall be limited to members of the public council and additional persons whose presence is reasonably necessary for the public council to perform its executive session responsibilities. An executive session may be held for any of the following purposes:
- a. Discussion or consideration of hiring, assignment, appointment, job performance, promotion, demotion, dismissal, salary, discipline, resignation, ethical misconduct, or alleged criminal conduct of a public officer, appointee, or employee of the Arizona judiciary;
  - b. Discussion or consideration of records or matters made confidential or privileged by statute, court rule, or this code;
  - c. Discussion or consultation with an attorney employed by or representing any judicial entity regarding legal advice, potential litigation, or pending litigation;
  - d. Discussion or consultation with officers, appointees, or employees of the judiciary regarding negotiations for the purchase or lease of real property or for contracting for goods or services;
  - e. through g. [No change]
6. Action. Approval of a majority of those voting shall constitute an action of the public council.

#### **D. Meeting Minutes.**

1. **Content.** Public council staff shall keep meeting minutes, in writing or on tape, that include:
  - a. The meeting date, time, and place;
  - b. through e. [No change]

2. and 3. [No change]

**E. Noncompliance.**

1. Remedial Measures. All public council chairs and staff persons shall comply with the provisions of this policy as one of the duties of their positions. If noncompliance is discovered, the chair of the public council, chief justice, or administrative director shall take reasonable measures consistent with this code to bring the public council into compliance. Such measures may include reconsideration of a matter at a subsequent meeting.
2. [No change]

\* \* \*

**APPENDIX 1**  
[No change]

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 1: Judicial Branch Administration**

**Chapter 1: Leadership**

**Section 1-104: Judicial Council**

*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through E. [No change]**

**F. Meetings.** The council shall meet no less than twice a year, with additional meetings called at the discretion of the chief justice. ~~Two-thirds of the council membership shall constitute a quorum.~~ The council must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

**G. and H. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-105: Committee on Superior Court**  
*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through E. [No change]**

**F. Meetings.** The COSC shall meet no less than twice a year. Additional meetings may be called at the discretion of the chair. All meetings shall be noticed and open to the public.

1. Quorum. ~~A simple majority (50% +1) of the current COSC membership shall constitute a quorum.~~ The COSC must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

2. and 3. [No change]

**G. and H. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-106: Committee on Limited Jurisdiction Courts**  
*(new text shown as underlined; deleted text with strikethrough)*

**A. through E. [No change]**

**F. Meetings.** The LJC shall meet no less than twice a year. The chair may call additional meetings. All meetings shall be noticed and open to the public.

1. Quorum. ~~A simple majority (50% + 1) of the current LJC membership shall constitute a quorum.~~ The LJC must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

2. [No change]

**G. and H. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 1: Judicial Branch Administration**

**Chapter 1: Leadership**

**Section 1-107: Commission on Diversity, Equality, and Justice in the Judiciary**

*(new text shown as underlined; deleted text with strikethrough)*

**A. through E. [No change]**

**F. Meetings.** The commission will meet no less than twice a year. Additional meetings may be called at the discretion of the commission chair. All meetings will comply with the judicial department's public meeting policy, ACJA § 1-202, and the following requirements:

1. Quorum. ~~A simple majority (50% +1) of the current commission membership shall constitute a quorum.~~ The commission must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

2. [No change]

**G. through I. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-108: Committee on Judicial Education and Training**  
*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through G. [No change]**

**H. Quorum and Actions.** COJET must not conduct business unless a quorum of members is present as defined in ACJA § 1-202. COJET shall adopt rules for conducting its business.  
~~These rules shall prescribe the quorum and majority needed to constitute COJET actions.~~

**I. and J. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-109: Commission on Technology**  
*(new text shown as underlined; deleted text with ~~strikethrough~~)*

A. through F. [No change]

G. Quorum and Actions. COT must not conduct business unless a quorum of members is present as defined in ACJA § 1-202. COT shall adopt rules for conducting COT business. ~~These rules shall prescribe the quorum and majority needed to constitute COT actions.~~

H. [No change]

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 1: Judicial Branch Administration**

**Chapter 1: Leadership**

**Section 1-110: Committee on the Impact of Domestic Violence and the Courts**

*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through E. [No change]**

**F. Meetings.** CIDVC shall meet no less than twice a year. The chairperson may call additional meetings. All meetings shall be noticed and open to the public.

1. Quorum. ~~A simple majority (50% + 1) of the current CIDVC membership shall constitute a quorum.~~ CIDVC must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.
2. [No change]

**G. through I. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-111: Commission on Victims in the Courts**  
*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through E. [No change]**

**F. Quorum and Actions.** The commission must not conduct business unless a quorum of members is present as defined in ACJA § 1-202. The commission shall adopt procedural rules for conducting commission business. The rules shall prescribe ~~quorum requirements~~, proxy use and the majority needed to authorize commission meeting actions.

**G. and H. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-112: Committee on Family Court**  
*(new text shown as underlined; deleted text with strikethrough)*

**A. through E. [No change]**

**F. Meetings.** The COFC shall meet no less than twice a year. Additional meetings may be called at the discretion of the chair. All COFC meetings shall be noticed and conducted in compliance with the judicial department's open meeting policy, as prescribed in ACJA § 1-202.

1. Quorum. ~~A simple majority (50% + 1) of the current COFC membership shall constitute a quorum.~~ The COFC must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

2. and 3. [No change]

**G. and H. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 1: Leadership**  
**Section 1-113: Arizona Commission on Access to Justice**  
*(new text shown as underlined; deleted text with strikethrough)*

**A. through E. [No change]**

**F. Meetings.** The ACAJ must meet no less than three times each calendar year. Additional meetings may be held on the call of the chair or by majority vote of ACAJ members. All meetings of the ACAJ must be noticed and open to the public.

1. Quorum. ~~A simple majority (50% + 1) of the current ACAJ membership constitutes a quorum.~~ The ACAJ must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

2. [No change]

**G. through I. [No change]**

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 1: Funding

Section 5-104: Alternative Dispute Resolution

(new text shown as underlined; deleted text with ~~strikethrough~~)

A. through D. [No change]

E. **Committee on Alternative Dispute Resolution.** The Committee on Alternative Dispute Resolution (Committee) is established to assist the supreme court in the development and implementation of policies designed to improve the quality of justice, access to the courts and efficiency in court operations by promoting alternatives to traditional litigation. The Committee shall identify the needs of limited jurisdiction and superior courts in the use of alternative dispute resolution methods. The Committee shall also analyze and plan for future developments and recommend uniform administrative policies and procedures to promote effective alternatives to litigation.

1. through 5. [No change]

6. The Committee must not conduct business unless a quorum of members is present as defined in ACJA § 1-202. The Committee shall adopt rules for conducting Committee business. These rules shall prescribe ~~the majority needed to constitute Committee meetings, a quorum and proxy policies.~~

7. [No change]

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 1: General Administration**  
**Section 6-114: Committee on Probation**  
*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through G. [No change]**

**H. Quorum and Actions.** COP must not conduct business unless a quorum of members is present as defined in ACJA § 1-202. COP shall adopt rules for conducting COP business. These rules shall prescribe ~~the quorum and~~ the majority needed to constitute COP actions.

**I. [No change]**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 3: Juvenile Services**  
**Section 6-303: Committee On Juvenile Courts**  
*(new text shown as underlined; deleted text with ~~strikethrough~~)*

**A. through F. [No change]**

**G. Quorum and Actions.**

1. COJC must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.
- ~~1.2.~~ COJC shall adopt rules for conducting COJC business.
- ~~2.3.~~ These rules shall prescribe the ~~quorum and~~ majority needed to constitute COJC actions.