

ARIZONA SUPREME COURT
Administrative Office of the Courts
Certification and Licensing Division



CERTIFIED REPORTER
INDIVIDUAL CERTIFICATION
CANDIDATE STUDY GUIDE

Certified Reporter Program
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1. INTRODUCTION

AUTHORITY	Arizona Revised Statutes (ARS) § 32-4001 through § 32-4042 and Arizona Code of Judicial Administration (ACJA) § 7-201 and § 7-206 establish the authority for administration of the Certified Reporter Program by the Arizona Supreme Court. The Court administers the Program through the Certification and Licensing Division of the Administrative Office of the Courts.
DEFINITION	ACJA § 7-206 defines certified reporters as those individuals who record and transcribe a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand, machine writing or voice writing, as provided in ARS § 32-4002(3).
REQUIREMENT FOR EXAMINATION	<p>All candidates for certification as a certified reporter shall successfully pass the National Court Reporters Association’s Registered Professional Reporter (RPR) examination or the National Verbatim Reporters Association’s Certified Verbatim Reporters (CVR) examination, and a written knowledge test of rules and Arizona statutes relating to certified reporters.</p> <p>All potential candidates for certification must take and pass the examinations to be eligible for certification.</p>
PURPOSE OF THIS HANDBOOK	The purpose of this handbook is to provide candidates with detailed information about the examination for certification as a certified reporter. The handbook includes information about subject matter areas assessed by the examination, candidate responsibilities on the day of the examination, and notification of examination results.

2. APPLICATION POLICIES AND PROCEDURES

ELIGIBILITY

All potential candidates for certification must successfully complete the RPR or CVR examinations and the Arizona written knowledge test, submit a completed application for certification, including the application fee, and possess the education or experience as outlined in ACJA § 7-201 and § 7-206.

CONFIRMATION OF ELIGIBILITY

Potential candidates applying for certification must register for an examination session as prescribed by instructions posted on the Program website at <https://www.azcourts.gov/cld/Certified-Reporters-Program>.

If you are sitting for the Certified Reporter Examination and are NOT seeking reciprocal certification pursuant to ACJA § 7-206(E)(1)(b), you will be required as part of the application process to present satisfactory evidence of completion of at least one of the following requirements:

1. Obtained one year of experience in making verbatim records of meetings, conferences, hearings, or judicial or related proceedings by means of written symbols or abbreviations in shorthand, machine writing or voice writing and in transcribing these records.
2. Obtained a verified certificate of the satisfactory completion of a prescribed course of study from a court reporting school or a certificate from a school that evidences the equivalent proficiency and the ability to make a verbatim record of material that is dictated pursuant to rules adopted by the supreme court.
3. Obtained a national court reporters association's registered professional reporter or registered merit reporter certificate.
4. Obtained a valid certificate to practice court reporting that is issued by a state other than this state if the other state's requirements and certifying examination are substantially similar to or more stringent than those in this state.
5. Demonstrated reasonable proficiency in making verbatim records of trial or judicial or other related proceedings by passing an approved examination for certification pursuant to rules adopted by the supreme court.

Reciprocal Certification:

Pursuant to ACJA § 7-206(E)(1)(b), if an applicant is currently licensed or certified as a reporter in another jurisdiction, certification may be granted if the requirements under A.R.S. § 32-4302 are met.

FEEES

The fee for participating in the examination is \$100.00. If it becomes necessary for an applicant to retake the examination, the fee is \$100.00. If a candidate registers for the exam and fails to appear as scheduled, the candidate will be assessed a \$100.00 re-registration fee.

TESTING
ACCOMMODATIONS

Requests for special accommodations in accordance with the Americans with Disabilities Act must be submitted to the Certification and Licensing Division with substantiating documentation three weeks before the scheduled exam.

3. OVERVIEW OF THE EXAMINATION

TIME LIMITS Candidates are allowed a total of three (3) hours to complete the examination. Candidates may wish to complete the multiple-choice questions in any order; however, candidates are responsible for managing their own time.

FORMAT The examination consists of 100 multiple-choice questions worth one point each. There is one correct answer for each question. There is no penalty for guessing; therefore, candidates should answer all of the questions.

The multiple-choice questions cover subject matter areas related to recording and producing a verbatim record of proceedings (see Content Specifications, Section 4). The questions are designed to demonstrate you possess the basic knowledge, skills, and abilities to report proceedings.

PASSING SCORE The passing score is the score that a candidate must achieve in order to pass the examination and qualify for certification as a certified reporter in Arizona.

The passing score for the examination is a score of 70 out of the possible 100 points. Scoring is not based on a candidate achieving a passing score in each of the content specification areas, but rather is reflective of the overall score on the examination.

4. CONTENT SPECIFICATIONS

CONTENT AREAS

The content areas for the examination were developed by a focus group of certified reporters from representative practice settings in January 2007. They evaluated the importance of major subject matter areas of practice, determined their relative importance to practice, and assigned a weight (percentage) to each area. For example, if the weight is 25%, there would be 25 questions on a 100-item examination.

There are five content areas outlined in the content specifications:

- I. Transcript production (25%)
 - A. Transcripts
 - B. Timeliness of transcripts
 - C. Certification of transcripts
 - D. Rough drafts
 - E. Notes
- II. Transcript distribution (10%)
 - A. Filing
 - B. Distribution
 - C. Original and copies
 - D. Expedited transcripts
 - E. Media
- III. Certificate holder responsibilities (15%)
 - A. Changes in name and address
 - B. Certification
 - C. Revocation and suspension of certificate
 - D. Hearings
 - E. Administrative
- IV. Ethics (25%)
 - A. Impartiality
 - B. Conflicts of interest
 - C. Contracts
 - D. Gifts, incentives, rewards, contingent fees
 - E. Ethical dilemmas
- V. Professional practice (25%)
 - A. Confidentiality
 - B. Going on and off the record
 - C. Advertisement of services

- D. Accurate representation of qualifications, skills, or abilities
- E. Fees
- F. Grounds for discipline
- G. Oaths and affirmations
- H. Freelance activities for official reporters
- I. Affidavit of non-appearance
- J. Grand jury
- K. Continuing education

The above specified percentages of content area questions may be randomly ordered on the examination. For example, questions on oaths and affirmations, may not necessarily be contained in one section or placed in consecutive order.

5. SAMPLE QUESTIONS

These specific questions will not be on the examination but are representative of the types and format of the questions on the examination.

1. What information must appear in a deposition transcript?
 - A. Location where the proceedings took place
 - B. A copy of the witness' driver's license
 - C. The attorneys' bar numbers
 - D. The witness' address

2. Which of the following items are required in a complaint form?
 - A. Name, telephone number, and address of the complainant
 - B. Name and telephone number of the certificate holder
 - C. Telephone number and fax number of the complainant
 - D. Address of the certificate holder and the alleged statutory violation

3. A certified reporter is asked to perform an assignment and is told that it will be a class-action product liability case. The certified reporter is not confident of her ability to perform the assignment. What action should be taken by the certified reporter in this situation?
 - A. Decline the assignment
 - B. Accept the assignment but inform the attorneys of the certified reporter's limitations
 - C. Accept the assignment and have another reporter assist in the preparation of the transcript
 - D. Accept the assignment and prepare the transcript to the best of the certified reporter's abilities

4. During a deposition, an argument begins between the attorneys during examination of a witness. One attorney asks the certified reporter to go off the record. What action, if any, should the certified reporter take in this situation?
 - A. Go off the record as requested
 - B. Go off the record if the witness agrees
 - C. Do not go off the record during a deposition
 - D. Verify that all the parties agree, then go off the record

ANSWERS: A, A, A, D

6. EXAMINATION POLICIES AND PROCEDURES

EXAMINATION SECURITY

Candidates cannot receive any unauthorized assistance during the examination, including but not limited to any of the following:

- Impersonating another person in order to take the examination on that person's behalf;
- Communicating examination content to any person (during or after the examination);
- Removing examination materials from the examination room;
- Having in one's possession books, equipment, notes, written or printed materials, data, other than the examination materials distributed;
- Reproducing examination materials or providing notes of examination content to any persons other than the examination staff; and,
- Obstructing or subverting the administration of the examination.

Any candidate who violates examination security policies is subject to denial of certification pursuant to ACJA §§ 7-201 and 7-206.

ARRIVAL AT THE EXAMINATION

On the day of the examination, the candidate must arrive at the designated examination site no later than the established registration time.

TARDINESS

An examination will not be disrupted to accommodate late arrivals. If a candidate reports late, the candidate could be required to take the examination within the remaining time or could not be permitted to take the examination, which would require paying fees for later participation.

REGISTRATION

The candidate must report to the registration area and present photographic identification (e.g., state-issued driver's license, military-issued identification, or government-issued passport). The candidate will not be permitted to take the examination if they have not pre-registered and/or if they do not have the required photographic identification.

At the time of the examination, all candidates will be required to sign an acknowledgement of the examination security policies and a non-disclosure agreement.

NO-SHOW POLICY

If a candidate fails to show up for the examination, the candidate must re-register for the examination and pay the applicable fees.

MATERIALS TO BRING

Other than photographic identification, you will be provided with all material necessary to participate in the examination process.

PROHIBITED MATERIALS

Candidates cannot bring communication devices, reference materials, photographic equipment, electronic devices, or food into the examination room. The following items are examples of prohibited materials:

- Mobile devices or smartphones
- Smartwatches
- Candidate handbooks, technical reference books, and dictionaries
- Any recording device
- Laptop computers

PERSONAL BELONGINGS

Food (beverage in a closed container is permitted) Candidates may keep keys, wallets, and purses at a designated location during the examination. Larger items (e.g., backpacks, briefcases, duffel bags, handbags, tote bags) and outerwear (e.g. coats, hats) CANNOT be brought into the examination.

Examination staff will not be responsible for monitoring candidates' personal items during the examination. If a candidate reports with prohibited materials or belongings the candidate will be asked to make alternative arrangements before starting the examination.

If securing belongings results in the candidate being late for the examination, the candidate could be required to take the examination within the remaining time or could not be permitted to take the examination, which would require paying examination fees for later participation.

CHECK-OUT PROCEDURE

All examination materials including test booklets, answer sheets, pencils, and any notes taken during the examination must be returned to the examination staff. Failure to do so will void the candidate's examination.

LEAVING THE ROOM DURING THE EXAMINATION Candidates will not be permitted to leave the examination room for any purpose unless accompanied by a member of the examination staff. Candidates will NOT receive extra time to complete the examination. Failure to follow this rule will result in the candidate's examination being voided.

7. EXAMINATION RESULTS

NOTIFICATION OF RESULTS

Examination results will be sent to each candidate at the contact information on file with the program within thirty (30) days of completion of the examination. Examination results will NOT be released to third parties.

RE-EXAMINATION

A candidate who fails to pass the written examination may retake the examination at any time provided the candidate is not disqualified from retaking the examination for fraud, dishonesty, or corruption while taking the examination.

8. REFERENCES

The following list of references provides a complete and comprehensive list of references related to the examination. It is expected for all applicants and certificate holders to have knowledge and understanding of these laws; not every statute, code, or rule in this list is represented through an examination question. All cited references refer to the version of the reference as of November 2019. Any amendments adopted to the references after November 2019 will not be included in the examination. Every reference you will need to be familiar with for the examination is contained in Section 9 of this study guide.

Arizona Code of Judicial Administration

ACJA § 7-201

[§ 7-201\(A\)](#)

[§ 7-201\(B\)](#)

[§ 7-201\(C\)](#)

[§ 7-201\(D\)](#)

[§ 7-201\(E\)](#)

[§ 7-201\(F\)](#)

[§ 7-201\(G\)](#)

[§ 7-201\(H\)](#)

[§ 7-201\(I\)](#)

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Policies and Procedures for Board Members

ACJA § 7-206

[§ 7-206\(A\)](#)

[§ 7-206\(B\)](#)

[§ 7-206\(C\)](#)

[§ 7-206\(D\)](#)

[§ 7-206\(E\)](#)

[§ 7-206\(F\)](#)

[§ 7-206\(G\)](#)

[§ 7-206\(H\)](#)

[§ 7-206\(I\)](#)

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Transcript Format Standards

Registered Reporting Firm

[ACJA § 3-402\(D\)\(38\)](#) Superior Court Records Retention and Disposition Schedule

[ACJA § 1-603\(B\)](#) Judicial Branch Records: Transcript Procedures

Arizona Revised Statutes

<u>ARS § 12-224</u>	Salary; fees for transcripts; free transcripts; office supplies
<u>ARS § 12-225</u>	Appointment of deputies; compensation
<u>ARS § 21-411</u>	Appointment of reporter; transcript
<u>ARS § 22-261</u>	Judgments which may be appealed
<u>ARS § 32-4002</u>	Definitions
<u>ARS § 32-4003</u>	Reporter certification; violation
<u>ARS § 32-4004</u>	Board of certified reporters
<u>ARS § 32-4005</u>	Program administration; duties
<u>ARS § 32-4021</u>	Standard certification qualifications; application
<u>ARS § 32-4022</u>	Examination; requirements; exemption
<u>ARS § 32-4023</u>	Certificate renewal
<u>ARS § 32-4024</u>	Certification denial
<u>ARS § 32-4025</u>	Administration of oaths

[Arizona Constitution, Article 2 § 7](#) Oaths and Administrations

Arizona Rules of Civil Procedure

<u>Rule 30(a)</u>	When a Deposition May Be Taken
<u>Rule 30(b)</u>	Notice of a Deposition' Method of Recording; Deposition by Remote Means; Deposition of an Entity; Other Formal Requirements.
<u>Rule 30(c)</u>	Examination and Cross-Examination; Record of the Examination; Objections; Conferences Between Deponent and Counsel; Written Questions.
<u>Rule 30(e)</u>	Review by the Deponent; Changes.
<u>Rule 30(f)</u>	Officer's Certification and Delivery; Documents and Tangible Things; Copies of the Transcript or Recording.
<u>Rule 43(g)</u>	Preserving Recording of Court Proceeding.

Arizona Rules of Criminal Procedure

Rule 12.4	Who May Be Present During Grand Jury Sessions
Rule 12.7	Record of Grand Jury Proceedings
Rule 31.2	Notice of appeal; automatic appeal; joint appeals
Rule 31.8	The record on appeal;
Rule 31.9	Transmission of the record
Rule 32.4(e)	Transcript Preparation

Arizona Rules of the Supreme Court of Arizona

Rule 30	Verbatim Recording of Judicial Proceedings
Rule 91(h)	Uniform Size of Electronic and Paper Transcripts

9. APPLICABLE ACJA SECTIONS, RULES, ORDERS AND STATUTES

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 7: Administrative Office of the Courts

Chapter 2: Certification and Licensing Programs

Section 7-201: General Requirements

A. Definitions. In this section, unless otherwise specified, the following definitions apply:

“Accredited” means placement on a list of nationally recognized authorizing agencies the United States Secretary of Education determines to be reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they sanction.

“ACJA specific section” means the adopted section of the Arizona Code of Judicial Administration (ACJA) applicable to a specified profession or occupation governed by this section, specifically, § 7-202: Fiduciaries; § 7-203: Confidential Intermediary; § 7-205: Defensive Driving Schools and Instructors; § 7-206: Certified Reporters and § 7-208: Legal Document Preparers.

“Active” means a valid and existing certificate to practice in the specified profession or occupation.

“Advisory letter” means written communication from the board notifying a certificate holder the conduct, while not warranting discipline, may result in future disciplinary action if not modified or eliminated. An advisory letter is not a disciplinary action.

“Censure” means a written formal discipline sanction, finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA.

“Certificate holder” means any entity or individual granted and currently holding valid certification pursuant to the applicable ACJA section and Arizona law.

“Certification” means a process conducted by a board to determine if a person or entity meets all requirements to practice in the profession or occupation, pursuant to statutes, court rules and the applicable ACJA section.

“Community college” means an accredited educational institution providing training in the arts, sciences and humanities beyond the twelfth grade of the public or private high school

course of study or vocational education, including terminal courses of a technical and vocational nature and basic adult education courses.

“Consent agreement” means a written statement to resolve a certification, complaint or compliance audit matter, voluntarily signed by the applicant or certificate holder.

“Corrective action plan” means the measures outlined and agreed upon by division staff and the certificate holder to correct all deficiencies after a compliance audit or defensive driving course monitoring is completed.

“Deputy director” means the deputy director of the administrative office of the courts (AOC) or the deputy director’s designee.

“Designated principal” means an active certificate holder of a business or public entity who is designated specific responsibilities pursuant to the applicable sections of the ACJA.

“Director” means the administrative director of the courts or the director’s designee.

“Disciplinary clerk” means the individual or the individual’s designee of the certification and licensing division designated to accept all filings relevant to denial of initial or renewal certification of applicants and discipline of certificate holders.

“Division director” means the director of the certification and licensing division of the AOC or the division director’s designee.

“Division staff” means all members of the certification and licensing division of the AOC, including the division director.

“Disciplinary action” means either informal or formal proceedings against a certificate holder, after a finding of probable cause the certificate holder has committed acts of misconduct or violations of statutes, court rules, or the applicable sections of the ACJA.

“Dismissed with prejudice” means final disposition barring future action under this section on the same issue, claim, or cause.

“Dismissed without prejudice” means final disposition with the right to bring future action under this section on the same issue, claim or cause.

“Expired” means the certificate has lapsed on a specified date.

“Filing” or “filed” means a document has been received and date-stamped by the disciplinary clerk.

“Formal statement of charges” means the document setting forth specific alleged acts of misconduct or violations by a certificate holder of statutes, court rules, or the applicable sections of the ACJA, including any amendments, authorized by the board, upon a determination of probable cause.

“Formal disciplinary proceedings” means the process initiated upon a determination of probable cause, the alleged acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by a certificate holder, that if true, would warrant a censure, consent agreement or other negotiated settlement, restrictions, probation, additional training, a cease and desist order, suspension or revocation of certification pursuant to subsection (H)(24)(a)(6).

“Good cause” means a legally sufficient ground or reason based upon the circumstances of the presented case.

“Hearing officer” means an individual appointed by the supreme court to preside over administrative hearings pursuant to this section.

“Inactive” means a certificate holder who voluntarily decides not to practice in the specified profession or occupation for a specified period of time and who is not the subject of any pending disciplinary action.

“Informal disciplinary proceedings” means the process initiated upon a determination of probable cause the alleged acts of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA by a certificate holder, that if true, would warrant a letter of concern, pursuant to subsection (H)(24)(a)(6)(a).

“Injury” means harm to a client, customer, the public, judicial or legal system, the profession, or occupation resulting from a certificate holder’s misconduct.

“Knowledge” is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.

“Letter of concern” means a written informal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or the applicable sections of the ACJA.

“Minimum competencies” means having the required skills for an adequate level of performance.

“Negligence” means deviation from the standard of care a reasonable certificate holder would exercise in the situation.

“Probable cause” means reasonable grounds for belief in the existence of facts concerning alleged acts of misconduct or violations by a certificate holder, warranting informal or formal discipline against the certificate holder.

“Probation” means a written formal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA but allowing the certificate holder to practice in their profession or occupation under specified conditions for a set period of time.

“Professional regulatory entity” means a government or private unit associated with and having authority over a group of qualified and practiced individuals in a profession or occupation.

“Revoked” or “revocation” means a written formal discipline sanction, finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA and the certificate to practice in the profession or occupation is rescinded.

“Sanction” means an explicit and official action resulting from an informal or formal disciplinary action finding a certificate holder has violated or failed to comply with one or more of the statutes, court rules, applicable sections of the ACJA, court orders or board orders relevant to the certificate holder’s profession or occupation.

“Section” means the referenced provision of the ACJA.

“Suspended” or “suspension” means a written formal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA and the certificate holder is not permitted to exercise the privileges of the certificate for a set period of time as the result of a final order of disciplinary action.

“Valid” means a certificate currently in effect, granted by the board and not expired, surrendered, suspended, or revoked.

“Voluntary surrender” means a certificate holder decides to discontinue practice in the specified profession or occupation and returns the certificate to the board for review and acceptance pursuant to subsection (E)(7).

B. Applicability. This section is read together with the ACJA section applying to the applicant’s or certificate holder’s profession, occupation or authorized services. In the event of any conflicts between this section and the ACJA section specific to a profession, occupation or authorized services, the specific ACJA section shall govern. Reference to “these sections” refers to ACJA § 7-201: General Requirements and the applicable sections of ACJA. ACJA § 7-201 applies to certification of confidential intermediaries pursuant to A.R.S. § 8-134 and § 8-543 and ACJA § 7-203; certification of fiduciaries pursuant to A.R.S. § 14-5651 and ACJA § 7-202; certification of defensive driving schools and instructors pursuant to A.R.S. §§ 28-3395 through -3399 and ACJA § 7-205; certification of reporters pursuant to A.R.S. § 32-4001

and ACJA § 7-206; and certification of legal document preparers pursuant to Rule 31, Rules of the Supreme Court and ACJA § 7-208.

C. Purpose. This section specifies the application, certification and renewal of certification process, the complaint and disciplinary process and hearing process for the certification programs. The primary purpose of the certification and discipline processes is protection of the public. In addition, the certification programs ensure compliance to the highest ethical standards, rehabilitation of the certificate holder and deterrence of further unprofessional conduct pursuant to subsection (H)(6)(k), in accordance with statutes, court rules and ACJA.

D. Administration.

1. Role and Responsibilities of the Supreme Court. Pursuant to A.R.S. § 8-134(I), § 8-543(A), § 14-5651(A), § 28-3395(B), § 32-4005(A) and Rule 31(a)(23), Rules of the Supreme Court, the supreme court is responsible for administering the confidential intermediary program, fiduciary program, defensive driving program, certified reporter program and legal document preparer program. The supreme court shall:

- a. Adopt rules for the implementation and administration of all certification programs including minimum qualifications, certification and disciplinary processes and a code of conduct.
- b. Establish and collect fees, costs and fines necessary for the implementation and enforcement of all certification programs.

2. Role and Responsibilities of the Director. The director as designated by the Az. Const. Art. 6 § 7:

a. Shall:

- (1) Develop policies and procedures in conformity with this section and the applicable sections of ACJA including §§ 7-202, -203, -205, -206 and -208;
- (2) Appoint and supervise all division staff;
- (3) Approve or disapprove all budgetary matters;
- (4) Ensure implementation of the applicable laws, this section and the applicable sections of the ACJA;
- (5) Develop policies and procedures regarding review of credit reports;
- (6) Develop policies and procedures governing any complaint initiated by the director; and
- (7) Develop time frames for the processing of certification applications by division staff.

b. May:

- (1) Appoint and develop administrative guidelines for ethics advisory committees to issue nonbinding ethical advisory opinions;
- (2) Direct division staff to conduct an investigation into alleged acts of misconduct or violations by a certificate holder pursuant to subsection (H)(1)(b);
- (3) Initiate a complaint pursuant to subsection (H)(1)(b)(4)(b); and
- (4) Pursuant to the applicable sections of the ACJA, administrative orders and A.R.S. §§ 28-3399 and 41-2401 (D)(8), initiate a compliance audit of a certificate holder to determine if the certificate holder is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA and any other legal or ethical requirement relating to the certificate holder's profession or occupation. The following provisions apply to audits:
 - (a) Timeframes. The director shall develop timeframes and procedures for division staff conducting compliance audits.
 - (b) Confidentiality.
 - (i) Working papers associated with the compliance audit maintained by division staff are not public records and are not subject to disclosure, except to court staff in connection with their official duties, the attorney general, county attorney, public regulatory entities or law enforcement agencies.
 - (ii) Upon completion of an audit the final report issued to the affected party is a public record subject to public inspection.
 - (c) Subpoena. The director may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the audit.
 - (d) Referral. The director may refer the audited certificate holder to an applicable agency or division staff for investigation of alleged acts of misconduct or violations of the statutes, court rules, this section or the applicable sections of the ACJA. If the director refers the audited certificate holder to division staff for investigation of allegations of acts of misconduct or violations, the division staff shall process the complaint pursuant to subsection (H).
 - (e) Violations or Noncompliance. Wilful violation of or wilful noncompliance with an order of the director regarding the audit, or wilful noncompliance with a corrective action plan resulting from an audit, may result in an order directing the certificate holder to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of a person or business, compliance with the director's order, or both. The superior court may treat the failure to obey the order as contempt of court and may impose penalties as though the certificate holder had disobeyed an order issued by the superior court.

3. Role and Responsibilities of the Deputy Director. The deputy director shall:

- a. Serve as the probable cause evaluator, pursuant to subsection (H)(5)(a);

- b. Review the investigation summary of a complaint prepared by division staff; and
 - c. Determine if there is probable cause to believe a certificate holder has committed acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA.
4. Role and Responsibilities of Division Staff. The director shall designate the division director and other division staff to assist in the administration of all certification programs pursuant to the Az. Const. Art 6, § 7. Division staff shall administer all certification programs.
- a. Role and Responsibilities of the Division Director. The division director may:
 - (1) Issue subpoenas in the investigation process pursuant to subsection (H)(1)(h);
 - (2) Dismiss complaints where the supreme court has no jurisdiction pursuant to subsection (H)(2)(b)(2);
 - (3) Dismiss clearly insufficient complaints pursuant to subsection (H)(2)(b)(3); and
 - (4) Refer complaints to another state agency or entity with jurisdiction, if appropriate, pursuant to subsection (H)(2)(b)(4).
 - b. Division staff shall:
 - (1) Submit completed applicant fingerprint cards and applicable fees to the Arizona Department of Public Safety, in accordance with A.R.S. § 41-1750 and Public Law 92-544, pursuant to subsection (E)(1)(d)(3);
 - (2) Make recommendations to the board on all matters of applications and certification and any other matters regarding applicants and certificate holders;
 - (3) Provide updates to the board on program activities;
 - (4) Maintain a list of certificate holders and post the list on the applicable Website and make the list available to the public;
 - (5) Conduct investigations of allegations of acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by applicants, certificate holders or non-certificate holders and report the findings to the board; and
 - (6) Conduct compliance audits and monitoring as required by this section or the applicable sections of the ACJA.
5. Role and Responsibilities of Professional and Occupational Boards.
- a. Establishment. The supreme court shall establish a board for each profession or occupation regulated by the supreme court pursuant to this section and the applicable ACJA section.

b. Appointment of Members. Upon establishment of a board, the chief justice shall appoint members to initial varying terms of one, two and three years to encourage continuity of the board. Thereafter, all terms are for three years, unless otherwise noted in the applicable ACJA section. The chief justice shall appoint the chair of each board who shall serve as chair no longer than three years, unless otherwise specified in the applicable ACJA section. If a vacancy occurs in a board member position, the chief justice shall fill the vacancy expeditiously in the manner provided for in the original appointment. The appointments shall provide geographical, gender and ethnic diversity and consist of members of the regulated profession or occupation, court staff, the public and other professionals pursuant to the applicable ACJA section. The chief justice may appoint members to serve successive terms. The members shall assist division staff in the recruitment of board members and in the recommendation to the chief justice regarding appointment of candidates to the board.

c. Duties of the Board.

(1) The board shall:

- (a) Make recommendations to the supreme court regarding rules, policies and procedures for regulation of the profession or occupation, including:
 - (i) applicant qualifications;
 - (ii) applicant testing;
 - (iii) fees;
 - (iv) a code of conduct;
 - (v) continuing education; and
 - (vi) any other matter pertaining to the regulated profession.
- (b) Establish a passing score on any examination used for certification purposes, other than a national validated examination;
- (c) Make all decisions regarding requests for special consideration to sit for subsequent examinations pursuant to subsection (E)(1)(f)(2)(d)(ii) and (iii);
- (d) Make all decisions regarding whether to certify applicants for initial or renewal of certification;
- (e) Review the division director's dismissal of a complaint, pursuant to subsection (H)(2)(d);
- (f) Review the probable cause evaluator's finding pursuant to subsection (H)(5)(a) and make a decision to:
 - (i) Request division staff to conduct further investigation;
 - (ii) Refer the complaint to another entity with jurisdiction;
 - (iii) Determine no violation exists and dismiss the complaint with or without prejudice, pursuant to subsection (H)(24)(a)(3);
 - (iv) Order the preparation of documents necessary for informal or formal disciplinary actions pursuant to subsection (H)(7)(b), (H)(8)(b) or (H)(9)(b); or

(v) Order an immediate emergency suspension of a certificate and set a date for an expedited hearing, if the public health, safety or welfare are at risk, pursuant to subsection (H)(9)(d)(1); and

(g) Make all final decisions regarding alleged acts of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA by applicants, certificate holders or noncertificate holders pursuant to subsections (H)(24) and (H)(25). The board has the final decision on the disposition of a complaint and may take any action pursuant to subsection (H)(24), regardless of the recommendations of the division director or hearing officer.

(2) The board may:

(a) Hold informal interviews of applicants regarding initial certification and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (E)(1)(a)(10);

(b) Hold informal interviews of certificate holders regarding renewal of certification and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (G)(1)(b);

(c) Request additional investigation of a complaint dismissed by the division director, pursuant to subsection (H)(2)(d)(2);

(d) Hold formal interviews of certificate holders regarding disciplinary matters, whether any discipline is eventually imposed or not, and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (H)(8); and

(e) Make procedural determinations to consolidate or sever any discipline matter.

d. The board shall follow the policies and procedures in subsection (I).

e. Persons appointed by the supreme court to serve on boards are immune from civil liability for good faith conduct relating to their official duties.

6. Computation of Time. For the purposes of this section and the ACJA specific section, the computation of days pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows:

[T]he day of the act, event or default from which the designated period of time begins to run shall not be included . . . if less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

E. Initial Certification.

1. Application for Initial Certification.

- a. Forms. An applicant shall apply for certification on approved forms and file them with division staff.
 - (1) Division staff shall conduct a preliminary review of the submitted application and determine if the application is deficient, the required supporting documents are deficient, fees are deficient, or a combination of these requirements are deficient.
 - (2) Division staff shall advise the applicant in writing of the deficiencies.
 - (3) The applicant shall provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees.
 - (4) Division staff may require the applicant to provide additional information or an explanation reasonably necessary to determine if the applicant meets the required qualifications specified in this section or the applicable sections of the ACJA.
 - (5) Upon receipt of a complete application, division staff may conduct a personal credit review and review records regarding an application for initial certification, consistent with the policies and procedures developed by the director pursuant to subsection (D)(2)(a)(5).
 - (6) The applicant shall notify division staff of any changes relevant to the application for certification within five days of the change.
 - (7) Upon a final review of the application, division staff shall prepare and forward to the board a written recommendation regarding the applicant's qualifications and eligibility for certification.
 - (8) Division staff shall advise the board in any written recommendation regarding certification of an applicant, of any complaints alleging acts of misconduct or violations of statute, court rules or order, this section, or the applicable sections of the ACJA, if the allegations occurred during the time the applicant held an active certificate and were received after the applicant's certificate expired.
 - (9) The division staff's written recommendation to the board shall note any deficiencies in the application. A deficient application for initial certification is lacking one or more of the following requirements:
 - (a) An explanation or correction of any deficiencies, pursuant to subsection (E)(1)(a)(4);
 - (b) Payment of all appropriate fees, pursuant to subsection (E)(1)(b);
 - (c) A photograph, pursuant to subsection (E)(1)(c); or
 - (d) A readable fingerprint card or affidavit in lieu of a fingerprint card, pursuant to subsection (E)(1)(d).
 - (10) The board, upon review of the division staff recommendation, may request an informal interview with an applicant for certification, pursuant to subsection (D)(5)(c)(2)(a), to establish if:
 - (a) Additional information is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA;

- (b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA; or
 - (c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules or applicable sections of the ACJA, received after the applicant's original certificate expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).
- b. Fees. The applicant shall submit, with the application, any applicable certification, examination and training fees specified in the applicable sections of the ACJA. Fees are not refundable or waivable. An applicant shall make the payment for any fee payable to the Arizona Supreme Court. An application submitted without fees is deficient.
- c. Photograph. The applicant for certification shall provide with the application, one color passport-size photograph, two inches by two inches of the applicant's head, neck and shoulders only. The applicant shall ensure the photograph was taken within the last two years and clearly identifies the applicant. An application submitted without a photograph is deficient.
- d. Fingerprinting. If required pursuant to law, the applicant shall submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check. An application submitted without a fingerprint card, if required by law, is deficient.
 - (1) The applicant shall provide a readable and complete fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.
 - (2) If after two attempts, the FBI determines the fingerprints provided are not readable, the applicant shall submit a written statement, under oath, the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.
 - (3) Division staff shall submit completed applicant fingerprint cards and the applicable fees to the Arizona Department of Public Safety, pursuant to A.R.S. § 41-1750, Public Law 92-544 and subsection (D)(4)(b)(1).
- e. Initial Training. If required by the applicable section of the ACJA, an applicant shall attend and complete the initial training session. Division staff shall provide the applicant with a document signifying the applicant completed the training. If required by the applicable section of the ACJA, an applicant shall attend the entire training session for eligibility to sit for a certification examination.
- f. Examination. If required by the applicable section of the ACJA, an applicant shall take and pass the examination for initial certification. Specific examination requirements

are located in subsection (E) of the applicable ACJA section. National examinations shall be at the time and place scheduled by the administering entity.

- (1) Administration of the Initial Examination. In administering the examination, division staff shall:
 - (a) Offer the examination on dates in conjunction with the initial training for certification, if initial training is required by the applicable section of the ACJA;
 - (b) Set a date and place for the examination;
 - (c) Promptly notify qualified applicants in writing they are permitted to sit for the examination, specifying the time and place of such examination;
 - (d) Publish in advance of the examination, content specifications for the examination and a study guide, as approved by the applicable board and make the specifications and study guide available to applicants;
 - (e) Announce, in advance of the examination, the passing score for the examination, as established by the applicable board. The passing score shall be consistent with the job analysis conducted at the direction of the board. An applicant shall pass with a final score on the examination meeting the guidelines established by the board;
 - (f) Use multiple versions of the examination and ensure no copies of the examination are released to applicants or the public;
 - (g) Inform each applicant in writing as to whether the applicant passed or failed the examination and if the grade is failing, a reexamination is required to meet all qualifications for certification; and
 - (h) Make and keep an accurate record of each examination used at each administration of the examination and the score of each person taking the examination.
- (2) Administration of Reexaminations. Division staff shall allow an applicant who fails the first examination to:
 - (a) Review the answer sheet and grade of the applicant, upon written request. The applicant shall conduct the review during business hours in the presence of division staff and the applicant shall not copy materials provided for review.
 - (b) Retake the examination two times under the following conditions:
 - (i) The applicant is not otherwise disqualified from retaking the examination;
 - (ii) The applicant sent a written request to retake the examination to division staff within 30 days of the date of the notice of the examination results;
 - (iii) The applicant files a new application and pays the applicable examination fee each time;
 - (iv) The applicant takes the second or third reexamination within 90 days of the date of the notice of the examination results indicating the applicant failed either the first or second examination; and
 - (v) An applicant who does not submit a written request to retake the examination within the 30 day time frame specified in subsection (E)(1)(f)(2)(b)(ii), may request an extension of time from the board upon a showing of good cause.

- (c) An applicant taking and failing the examination three times, unless otherwise noted in the applicable ACJA section, shall not be permitted to take any subsequent examination unless granted permission by the board.
- (d) Subsequent Examinations.
 - (i) Any applicant who was unsuccessful on the third attempt to pass the examination may request the board for permission to sit for a fourth examination. The applicant shall submit a written request to the board to sit for a fourth examination under the following conditions:
 - a) The applicant has filed a new application with division staff and paid the appropriate examination fee;
 - b) The applicant is not otherwise disqualified from taking the subsequent examination;
 - c) The applicant has provided documentation attached to the new application stating the additional study and preparation the applicant has made to qualify for a fourth examination; and
 - d) The applicant has provided documentation attached to the new application demonstrating the circumstances and reasons for believing the applicant now possesses the knowledge of the minimum competencies of the profession or occupation to pass the fourth examination.
 - (ii) If the board finds the applicant demonstrates additional study and preparation and the circumstances and reasons to believe the applicant now possesses the knowledge of the minimum competencies of the profession or occupation, the board may, pursuant to subsection (D)(5)(c)(1)(c), approve the applicant's request to sit for the fourth examination. Division staff shall inform the applicant of the board's decision to allow the applicant to sit for the fourth examination within ten days of the board's decision. The notice shall state the earliest date for which the applicant may sit for the fourth examination.
 - (iii) If the board finds the applicant does not demonstrate additional study and preparation and the circumstances and reasons to believe the applicant now possesses the knowledge of the minimum competencies of the profession or occupation, the board shall, pursuant to subsection (D)(5)(c)(1)(c), deny the applicant's request to sit for the fourth examination. Division staff shall inform the applicant of the board's decision to deny the applicant's request to sit for the fourth examination within ten days of the board's decision. The notice shall state the reasons for the board's denial. The decision by the board to deny the request is final and there is no right to a hearing.
 - (iv) If the applicant's request to sit for the fourth examination is denied, the applicant may file a new application twelve months after the board's decision to deny.
 - (v) An applicant who was unsuccessful on the fourth or any subsequent examinations may request permission from the

board to sit for a subsequent examination pursuant to subsection (E)(1)(f)(2)(d).

- g. An applicant is disqualified from taking any future examination if the board determines the applicant engaged in fraud, dishonesty or corruption while taking the examination or any subsequent examination.
- h. Updating of Examinations. Division staff shall update examinations as needed and may ask representatives from the court community, regulated profession or occupation, the public, or any other knowledgeable resource to assist in the development and validation of examinations for the applicable sections of the ACJA.

2. Decision Regarding Certification.

- a. Notification of Certification. Upon the board's decision to issue a certificate, division staff shall promptly notify qualified applicants of certification in writing, pursuant to this section and the applicable section of the ACJA. Each qualified applicant shall receive a document, badge or card evidencing certification, stating the applicant's name, date of certification, certificate number and expiration date of the certification. Each certificate shall expire as provided in the applicable section of the ACJA. In addition, unless previously provided, each applicant granted certification shall receive a copy of this section and the applicable section of the ACJA, detailing the responsibilities of the certificate holder.
- b. Certificate Status. All certificates are valid until expired, surrendered, suspended or revoked.
- c. Denial of Initial Certification.
 - (1) The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the ACJA; or has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.
 - (2) The board may deny certification of any applicant if one or more of the following is found:
 - (a) Material misrepresentation, omission, fraud, dishonesty, or corruption on the part of the applicant in the examination for certification;
 - (b) The applicant or an officer, director, partner, member, trustee, or manager of the applicant:
 - (i) Has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form;
 - (ii) Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;

- (iii) Has conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is incompetent or a source of injury and loss to the public;
 - (iv) Has a conviction by final judgment of a felony, regardless of whether civil rights have been restored;
 - (v) Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored;
 - (vi) Has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate;
 - (vii) Has a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to the certification sought;
 - (viii) Has a termination, suspension, probation or any other disciplinary action regarding past employment if the underlying conduct is relevant to the certification sought;
 - (ix) Has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft or conversion;
 - (x) Is currently on probation or parole;
 - (xi) Has violated any decision, order, or rule issued by a professional regulatory entity;
 - (xii) Has violated any order of a court, judicial officer, administrative tribunal, or the board;
 - (xiii) Has made a false or misleading statement or verification in support of an application for a certificate filed by another person;
 - (xiv) Has made a false or misleading oral or written statement to division staff or the board;
 - (xv) Failed to disclose information on the certification application subsequently revealed through the background check;
 - (xvi) Failed to respond or furnish information to the division staff or the board when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to certification or investigative inquiries; or
 - (xvii) If the applicant is a business, a record of conduct constituting dishonesty or fraud on the part of an employee, board member, or the business.
- (3) The board may consider any or all of the following criteria when reviewing the application for certification of an applicant with a misdemeanor or felony conviction, pursuant to subsection (E)(2)(c)(2)(b)(iv) and (v):
- (a) The applicant's age at the time of the conviction;
 - (b) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;
 - (c) The degree of violence, injury or property damage and the cumulative effect of the conduct;
 - (d) The applicant's level of disregard of ethical or professional obligations;
 - (e) The reliability of the information regarding the conduct;

- (f) If the offenses involved fraud, deceit or dishonesty on the part of the applicant resulting in harm to others;
 - (g) The recency of the conviction;
 - (h) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;
 - (i) The relationship of the conviction to the purpose of certification;
 - (j) The relationship of the conviction to the applicant's field of certification;
 - (k) The applicant's candor during the application process;
 - (l) The significance of any omissions or misrepresentation during the application process; and
 - (m) The applicant's overall qualifications for certification separate from the conviction.
- (4) Upon the board's decision to deny certification, division staff shall, notify each applicant denied certification of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection (E)(2)(c)(5). The division staff shall provide the notice in writing and shall send the notice within ten days after the board's decision.
- (5) An applicant is entitled to a hearing on the decision to deny certification, if the disciplinary clerk receives a written request for a hearing within fifteen days after division staff mails the notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for the hearing and appeal.
- (6) An applicant denied certification by a final decision of the board, whether or not a hearing was requested and held, may reapply for certification, pursuant to subsection (E), under the following circumstances:
- (a) It has been twelve months since the final decision by the board;
 - (b) If the initial reasons for denial were failure to meet the education and experience requirements, the applicant shall attach to the new application written documentation demonstrating how the circumstances have changed to meet these requirements:
 - (i) Division staff shall review the new application and supporting documentation and consider if the applicant now meets the education and experience requirements;
 - (ii) Division staff shall notify the applicant in writing within ten days if the applicant has now provided sufficient documentation to demonstrate the applicant meets the education and experience requirements pursuant to this section and the applicable ACJA sections or has not provided sufficient documentation to demonstrate the applicant now meets the education and experience requirements;
 - (iii) If the applicant has met the education and experience requirements necessary for certification, division staff shall forward the application to the board pursuant to subsection (E)(1)(a)(7);
 - (iv) If the applicant has not met the education and experience requirements necessary for certification, division staff shall forward the application to the board noting the deficiencies and a recommendation for denial pursuant

to subsection (E)(1)(a)(9) and provide written notice to the applicant of the deficiencies and recommendation; and

- (v) The applicant may request an informal interview with the board to review the recommendation of division staff for denial of certification because of the deficiencies, if the request is submitted to the board in writing within ten days of the date of the notification.
- (c) If the board denied certification for reasons other than failure to meet the education or experience requirements, the applicant shall present new documentation to address the original issues resulting in denial including all of the following:
 - (i) Demonstration of acceptance of responsibility for the conduct leading to the denial by the board; and
 - (ii) Establishment of good moral character.
- (d) In determining whether the applicant has established good moral character, the board shall conduct an informal interview with the applicant, no later than 60 days after the applicant has submitted a completed application.
- (e) Upon a showing of good cause, the applicant may apply for certification sooner than twelve months if denied solely for lack of education or experience necessary for certification, if those circumstances have changed.
- (f) The applicant may not reapply for certification if there are statutory provisions prohibiting certification as specified in the applicable ACJA section.

3. Time Frames for Certification.

- a. The director shall develop time frames for the processing of certification applications by division staff, pursuant to subsection (D)(2)(a)(7).
- b. An applicant shall respond timely to requests for information from division staff pertaining to the applicant's application. Unless the applicant can show good cause as to why the board should grant additional time, the board shall not approve any applicant for certification unless the applicant successfully completes all requirements within 90 days from the date division staff received the original initial application for certification or within 90 days of the applicant passing the examination for certification if required by the applicable section of the ACJA.
- c. If an applicant needs additional time to comply with division staff requests or to complete the application process within the time frames specified in this subsection, the applicant shall file a written request for an extension with division staff. The request shall state the reasons for additional time to comply with time frames and certification requirements. The applicant shall file the request for additional time to complete the initial application at a minimum, ten days prior to the 90 day deadline, unless the applicant makes a showing of good cause. Failure to complete the certification process or file a written request for an extension of time within this time period shall nullify and void the original application and supporting documents, including fingerprints, fees and the applicable examination scores.

- d. Division staff shall forward the written request for an extension of time to the board at the next scheduled board meeting.
 - e. If the applicant fails to meet the 90 day deadline or is not granted additional time by the board to complete the initial certification process, the applicant is considered a new applicant. The applicant shall submit a new application including a fingerprint card and fee if applicable and certification and training fees. The applicant is not required to sit for the examination if the applicant submits the new application within one year of having successfully passed the required examination.
4. Records of Applicants for Certification and Certificate Holders. Unless otherwise provided by law, the following applies to applicant and certificate holder records:
- a. Applicant and certificate holder's certification records are open to the public, after home addresses, home or cellular telephone numbers, social security numbers and all other personally identifying information, except for the name of the certificate holder, have been redacted.
 - b. Division staff shall retain applicant and certificate holder records for a period of five years from the last activity in the record. Division staff shall take appropriate methods to ensure the confidentiality of any destroyed records.
 - c. If an applicant or certificate holder needs to have personally identifying information contained in their files released to an employer or potential employer, the applicant or certificate holder shall sign a release of information form. Division staff shall provide the applicant or certificate holder with an approved form for this purpose.
5. Unlawful Use of Designation or Abbreviation. A person who has received a certificate to practice in a specific profession or occupation from the board is authorized to utilize the designation of "Arizona certified" in connection with their title or name and may use any appropriate abbreviation connected with this certification. No other person or business shall assume or use the title, designation or abbreviation or any other title, designation, sign or card, the use of which is reasonably likely to induce others to believe the person or business holds valid certification issued by the Arizona Supreme Court in the specified profession or occupation. The certificate holder shall not sell, transfer or assign its certification to any other entity.
6. Cease and Desist Order. The board, upon completion of an investigation or disciplinary proceeding, may issue a cease and desist order pursuant to subsection (H)(24)(a)(6)(g). A hearing officer or a superior court judge, upon petition by the board, may enter an order for an individual or business entity to immediately cease and desist conduct constituting engagement in the practice of the profession or occupation without the required certification.
7. Voluntary Surrender. A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the

board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.

- a. Division staff shall present the surrendered certificate to the board at the next available board meeting after receiving the surrender. Upon the board's acceptance of the voluntary surrender division staff shall designate the certificate of the certificate holder as a "surrendered certificate holder in good standing". Division staff shall notify the certificate holder in writing within ten days after the board's acceptance of the surrender.
- b. The board shall not accept the surrender if there is a complaint pending against the certificate holder. However, this does not preclude the board from entering into a consent agreement to resolve the pending complaint pursuant to subsection (H)(24)(a)(6)(c) by terms including the voluntary surrender of the certificate.
- c. The board shall, within 120 days of the receipt of the surrendered certificate by division staff either accept the surrender or, based upon the recommendations of division staff, institute disciplinary proceedings pursuant to subsection (H). If the board subsequently imposes a sanction pursuant to subsections (H)(24) and (H)(25) upon the certificate of the surrendered certificate holder, division staff shall change the status of the certificate holder from "surrendered certificate holder in good standing" to that of a person so disciplined.

8. Inactive Status.

- a. A certificate holder may transfer to inactive status, upon written request to the board. Upon recommendation of division staff the board may accept the transfer of the certificate holder to inactive status and division staff shall note in the certification database the certificate holder is on inactive status, in good standing. The inactive certificate holder shall not engage in the practice of the profession or occupation of certification pro bono or for a fee or other compensation while on inactive status and shall not present themselves as a certificate holder.
- b. Upon application and payment of any applicable fee for reactivation of certification, required by the applicable section of the ACJA, the board may require the applicant to comply with the following:
 - (1) Submit proof of compliance with the requirements for continuing education;
 - (2) Submit other proof required by the board to:
 - (a) Demonstrate the applicant possesses the skills necessary to practice in the profession or occupation;
 - (b) Demonstrate the applicant remains in compliance with the applicable ACJA sections; and
 - (c) Demonstrate compliance with other requirements for certification.

- (3) If the applicant for reinstatement engaged in the profession or occupation in another jurisdiction during the time the certificate holder's certificate was inactive, the applicant shall submit all of the following:
 - (a) Proof of practice in the profession or occupation in the other jurisdiction;
 - (b) An affidavit affirming the applicant has not been disciplined in another jurisdiction; and
 - (c) An affidavit affirming the applicant is not subject to discipline or being investigated in another jurisdiction.
 - (4) If the applicant has been inactive for more than one year the board may require the applicant to sit for and pass the applicable examination.
 - c. If the applicant meets the requirements of this subsection to the satisfaction of the board, the board shall return the inactive certificate holder to active status. Division staff shall change the status of the certificate holder from "inactive" to "active" and notify the certificate holder of the board's decision within ten days.
 - d. A certificate holder shall only remain in an inactive status as specified by the applicable ACJA section.
9. Reinstatement after Suspension or Revocation. A certificate holder whose certificate was suspended or revoked by a final order of the board may apply for reinstatement under the following conditions:
 - a. An applicant for reinstatement shall file a written application for reinstatement with division staff, accompanied by the appropriate fees and the following documents:
 - (1) The reinstatement form and a copy of the final order of suspension or revocation;
 - (2) A detailed description of the applicant's occupation and sources of income or earnings derived during the period between the filing of the final order by the disciplinary clerk and the date of application for reinstatement after suspension or an initial application for recertification;
 - (3) A statement of every civil or criminal action and a copy of the action, where the applicant was either plaintiff or defendant, since the submission of the last renewal application or, if no renewal application has been submitted, then since the initial application was submitted;
 - (4) A list of all criminal or civil final judgments since the submission of the last renewal application, or if no renewal application has been submitted, then since the initial application was submitted;
 - (5) A list of all residences and business addresses since the submission of the last renewal application, or if no renewal application has been submitted, then since the initial application for certification and the date division staff receive the application for reinstatement;
 - (6) A statement of concise facts of how the applicant for reinstatement has maintained the minimum competencies and knowledge during the period of time from the date of the suspension order until the date division staff receives the reinstatement application;

- (7) A statement of concise facts of how the applicant for recertification has maintained the minimum competencies and knowledge during the period of time from the date of the order revoking the applicant's certificate until the date division staff receive the application for certification;
 - (8) A statement of facts supporting reinstatement to the profession or occupation after suspension; or a statement of facts supporting certification again to the profession or occupation; and
 - (9) A statement of all facts demonstrating the applicant's rehabilitation during the period of time from the date of the board's order revoking the applicant's certificate or suspending the applicant's certificate, until the date division staff receive the application for reinstatement or initial certification.
- b. Division staff or the board may require additional information demonstrating the applicant meets the minimum competencies of the profession or occupation. The board may require the applicant sit for and pass the applicable examination in order to process the application or determine if the applicant meets the minimum competencies of the profession or occupation. The applicant has the burden of proof to demonstrate by clear and convincing evidence the applicant's rehabilitation, compliance with all discipline orders and rules and, the applicant meets the minimum competencies of the profession or occupation. An applicant denied reinstatement by the board has the right to a hearing pursuant to subsection (H)(12), except if the applicant fails to provide the information within the requested time frame. Failure to provide the information shall result in automatic denial of reinstatement without the right to a hearing.
 - c. Upon submission of all requirements of subsection (E)(9)(a), the applicant shall meet all requirements of initial certification pursuant to subsection (E)(1). The applicant, for reinstatement after a suspension or revocation, shall pay the fee for reinstatement, pursuant to subsection (K) in the applicable section of the ACJA.
 - d. The board shall not issue any certification under this section to any person or business entity whose certification has been suspended until:
 - (1) The person or business entity seeking reinstatement of a suspended certificate has demonstrated all the requirements of the suspension order have been met; and
 - (2) The person or business entity qualifies in accordance with the applicable provisions of this section or other sections of the ACJA.
 - e. The board shall not issue any certification under this section to any person or business entity whose certification has been revoked until:
 - (1) One year has passed from the date of the board's final order of revocation;
 - (2) The person or business entity seeking certification provides proof of satisfaction of any and all requirements in the order of revocation; and
 - (3) The person or business entity again qualifies in accordance with the provisions of subsection (E)(1) and the applicable sections of the ACJA.

F. Role and Responsibilities of Certificate Holders.

1. Code of Conduct. Each individual certificate holder shall adhere to the code of conduct or standards of conduct, subsection (J) in the applicable section of the ACJA.
2. Identification. Upon request by any judicial officer, court employee or member of the public, a certificate holder shall provide proof of certification.
3. Assumed Business Name. A certificate holder shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the legal name of the individual or business entity unless the person or business entity files with division staff a statement indicating the name for transaction of the business and the legal full name of the certificate holder.
4. Response. A certificate holder shall respond by the specific time stated in any request for information from, and shall provide documents to the director, deputy director, division staff, or board pertaining to certification, renewal of certification, complaints alleging acts of misconduct or violations by the certificate holder, investigative inquiries and compliance audits or defensive driving course monitorings of the practice of the certificate holder. A certificate holder shall respond to any subpoenas or orders issued by the director, division director, board, or any judicial officer. Failure to comply with this subsection by a certificate holder constitutes grounds for discipline pursuant to subsection (H)(6)(c) or denial of renewal of certification pursuant to subsection (G)(3) and (G)(4). Failure to comply with this subsection by a certificate holder in completion of a corrective action plan or defensive driving course monitoring may constitute grounds for discipline, pursuant to subsection (H)(6)(b).
5. Candor.
 - a. A certificate holder shall not knowingly:
 - (1) Make a false statement of material fact or law to a tribunal; or
 - (2) Fail to disclose a material fact to a tribunal, except as required by applicable law.
 - b. A certificate holder shall notify division staff within ten days of a misdemeanor or felony conviction.
6. Change of Name or Address. A certificate holder shall notify division staff of any change in name or business, directory, mailing or home address, telephone number or email address within 30 days of any change, pursuant to the applicable sections of the ACJA. The certificate holder shall make this notice in writing by U.S. Post, facsimile or email.

G. Renewal of Certification.

1. Expiration Date. Certificates expire on the date specified by the applicable section of the ACJA except as otherwise provided in this section. All certificates shall continue in force until expired, voluntarily surrendered, placed on inactive status, suspended or revoked.
2. Application. A certificate holder is responsible for applying for a renewal certificate. The certificate holder shall apply for renewal of certification on the form provided by division staff. The board shall set a deadline renewal application date, in advance of the expiration date, to allow a reasonable time frame for processing the renewal application.
 - a. When a certificate holder has filed a timely and complete renewal application, the existing certification does not expire until the administrative process for review of the renewal application has been completed.
 - b. When a certificate holder requests to file an untimely renewal application, the division director may process the untimely application and recommend to the applicable Board to renew a certificate if the untimely renewal applicant demonstrates to the director good cause for the untimely filing. In addition, the following shall apply:
 - (1) The applicant shall submit a complete renewal application and applicable fees, and any other documentation requested by division staff to verify the grounds for the good cause exception requested.
 - (2) The applicant shall not practice in the applicant's profession:
 - (a) until the director decides in writing based on good cause to process the application or
 - (b) if the director decides not to process the untimely application, until an initial application is processed and the applicant is granted certification pursuant to the AJCA § 7-201(E) and the applicable sections of §§ 7-202 through 7-208.
 - c. When a timely renewal application is denied, the existing certification does not expire until the last day for seeking a hearing on the denial decision pursuant to subsection (E)(2)(c)(5); or if a hearing is requested, until the final decision is made by the board pursuant to subsection (H)(25).
 - d. The board may request an informal interview with the applicant for renewal, pursuant to subsection (D)(5)(c)(2)(b), to establish if additional information or an explanation of the information provided by the applicant is needed to determine if the applicant continues to meet the qualifications for certification in this section and the applicable section of the ACJA.
 - e. The certificate of a certificate holder who does not supply a complete renewal application and payment of the renewal fee in the specified time and manner to division staff shall expire as of the expiration date in the applicable section of the ACJA. Division staff shall treat any renewal application received after the expiration date as a new application, except when the certificate holder requests to file an untimely renewal application pursuant to subsection (G)(2)(b).

3. Additional Information. Before recommending renewal of certification, division staff may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this section, which may include:
 - a. Background information, pursuant to subsection (E)(1)(a) and the applicable section of the ACJA;
 - b. A personal credit review and review of records pertaining to the applicant by division staff, pursuant to subsection (E)(1)(a)(5); and
 - c. Fingerprinting pursuant to subsection (E)(1)(d);
4. Decision Regarding Renewal.
 - a. The board may renew a certification if the certificate holder:
 - (1) Meets all requirements for renewal as specified in this section and the applicable section of the ACJA;
 - (2) Submits a completed renewal application; and
 - (3) Pays the renewal fees on or before the expiration date as specified by the applicable section of the ACJA.
 - b. Division staff shall promptly notify the applicant in writing of the board's decision to renew the applicant's certificate in accordance with this section and the applicable section of the ACJA. Each renewed applicant shall receive a document, badge or card evidencing renewal of certification, stating the applicant's name, date of certification, certification number and expiration date.
 - c. The board may deny renewal of certification for any of the reasons stated in subsection (E)(2)(c). Division staff shall promptly notify the applicant, in writing, within ten days of the board's decision to deny renewal of certification. The notice shall include the board's reasons for the denial of renewal of certification and the right of the applicant to a hearing, pursuant to subsection (G)(4)(d).
 - d. An applicant is entitled to a hearing, on the decision to deny renewal of certification if the disciplinary clerk receives a written request for a hearing within fifteen days after the date of the notice of denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for hearing and appeal.

H. Complaints, Investigations, Disciplinary Actions, Proceedings and Certification and Disciplinary Hearings.

1. Complaints: Filing and General Provisions.

- a. Filing of Complaint. All judicial officers, court employees and certificate holders shall, and any person may, notify division staff if it appears a certificate holder has violated statutes, court rules, this section or the applicable section of the ACJA. The complainant shall provide the complaint in writing with sufficient specificity to warrant further investigation. The complaint form shall provide the name, telephone number and address of the complainant.

- b. Director Initiated Complaints. In accordance with the policies and procedures developed pursuant to subsections (D)(2)(a)(6) and (D)(2)(b)(2), the director may direct division staff to investigate allegations of acts of misconduct or violations of statutes, court rules, or the ACJA, which may result in a complaint, if such investigation protects and serves the best interest of the public. This shall include an investigation where the complainant does not wish to have their identity disclosed to the certificate holder.
 - (1) Review of allegations. Division staff shall:
 - (a) Review the allegations and determine if the supreme court has jurisdiction;
 - (b) Determine if there is sufficient information to permit investigation;
 - (c) Verify details in the allegations including the certificate holder's status and, if available, any addresses, phone numbers or other relevant factors;
 - (d) Corroborate, by independent observations and information, the allegations of acts of misconduct or violations of statutes, court rules or the ACJA, to determine if the allegations are credible and reliable; and
 - (e) Meet with the division director to confirm jurisdiction and relevant factors contained in the allegations.
 - (2) Division staff shall, upon completion of the review, prepare a written report of the allegations and include the following:
 - (a) Confirmation of supreme court jurisdiction;
 - (b) Determination, if the allegations are true, they would warrant discipline;
 - (c) Verification of details in the allegations; and
 - (d) Corroboration of relevant facts by independent observations.
 - (3) Division staff shall forward the written report to the director for review and schedule a meeting with the director and division director.
 - (4) The director shall review the written report and direct staff to:
 - (a) Conduct further review of the allegations;
 - (b) Initiate a complaint naming the director as the complainant, pursuant to subsection (D)(2)(b)(3); or
 - (c) Determine the allegations do not warrant the filing of a director initiated complaint.

- c. Anonymous Complaints. Division staff shall not accept anonymous complaints.

- d. Authority after Expiration. If a complaint or investigation is pending prior to the expiration date of a certificate, the provisions of subsection (G)(1) and the applicable sections of the ACJA do not affect the authority of:

- (1) The director to initiate a complaint, pursuant to subsection (D)(2)(b)(3);
 - (2) Division staff to investigate a complaint, pursuant to subsection (D)(4)(b)(5); or
 - (3) The board to take disciplinary action regarding the certification of a certificate holder, pursuant to subsection (D)(5)(c)(1)(g).
- e. Standing of Complainant. A complainant does not have standing regarding any proceedings and is not a party to any proceedings. The complainant may, upon request to division staff, receive notice of any public proceeding concerning the complaint or any consent agreements. The complainant submits to the jurisdiction of the supreme court's certification and licensing division for all purposes relating to the proceedings.
- (1) The complainant shall keep division staff informed of any changes of mailing address, telephone number or email address during the investigation and any disciplinary proceedings.
 - (2) Division staff shall forward any correspondence or notice to the complainant by United States mail to the last address of record with division staff.
 - (3) Division staff shall provide the complainant with the following information:
 - (a) A written acknowledgement of the receipt of the complaint;
 - (b) A copy of the letter sent to the certificate holder requiring a response to the alleged acts of misconduct or violations and the initial response by the certificate holder, within twenty days of receipt of the certificate holder's initial response;
 - (c) Notice, if the complainant has requested notice, of any public proceeding concerning the complaint or any consent agreement;
 - (d) Notice of the final disposition of each allegation; and
 - (e) Notice of the dismissal of the complaint within ten days of the determination by the division director, if applicable, pursuant to subsection (H)(2)(b).
 - (4) Failure by division staff to provide the complainant with information as required by this subsection shall not affect the ultimate disposition of any allegations of acts of misconduct or violations by the certificate holder.
 - (5) The complainant may file a request for review by the board of the division director's dismissal of the complaint, within ten days of the date of the notice of dismissal pursuant to subsection (H)(2)(e).
- f. Non-abatement. Unwillingness, failure of the complainant to cooperate with division staff or the board, withdrawal of the complaint or a specific allegation of misconduct or violation contained in the complaint, settlement or compromise between the complainant and the certificate holder, or restitution by the certificate holder shall not abate the processing of any complaint or disciplinary proceeding.
- g. Confidentiality of Complaints. The director, deputy director, division staff, board and court employees shall keep information or documents obtained or generated by the director, deputy director, division staff, board or court employees in the course of an open investigation or received in an initial report of misconduct confidential, except as mandated by court rules or this section.

- (1) Confidential information may also be disclosed during the course of an open investigation:
 - (a) To court staff, the attorney general, county attorney, law enforcement and other regulatory officials;
 - (b) If the director makes a finding the disclosure is in the best interest of the public and the interest is not outweighed by any other interests; or (c) Is not contrary to law.
 - (2) Once a finding of probable cause has been entered all information and documents are open for public inspection unless:
 - (a) Confidential by law or public record rules adopted by the supreme court; or
 - (b) If the deputy director, as probable cause evaluator, determines further investigation is necessary, the information or documents and those compiled in the further investigation shall remain confidential until probable cause is determined.
 - (3) Complaints dismissed by the division director, pursuant to subsection (H)(2)(b) for lack of jurisdiction or clear insufficiency are confidential and not a matter of public record for inspection.
 - (4) Complaints dismissed by the board, pursuant to subsection (H)(24)(a)(3) are a matter of public record for inspection.
- h. Investigative Subpoenas. Upon the recommendation of division staff and a demonstration of good cause, the division director, pursuant to subsection (D)(4)(a)(1), may issue an investigative subpoena to any person or entity:
- (1) For the purpose of securing documents or information from any person or entity, if the documents or information are related to a pending investigation of alleged acts of misconduct or violations regarding statutes, court rules, this section or the applicable section of the ACJA.
 - (2) Subpoenas issued by the division director shall be issued and served in the same manner as provided by the Arizona Rules of Civil Procedure. An employee of the court or any other person as designated by the Arizona Rules of Civil Procedure may serve the subpoena.
- i. Processing Time Frames. Division staff shall:
- (1) Prepare any complaint the division director has dismissed pursuant to subsections (H)(2)(b) and (c) and forward the complaint to the board for review, pursuant to subsection (H)(2)(d), at the next regularly scheduled board meeting.
 - (2) Prepare and forward to the board for review at the next regularly scheduled board meeting, any investigated complaint the deputy director has reviewed and entered a finding regarding probable cause, pursuant to subsection (H)(5)(c).
 - (3) Prepare the documents for informal discipline no later than 30 days following the order of the board, pursuant to subsections (H)(7)(b) and (H)(25), unless the board extends the time for good cause.

- (4) Prepare the documents for formal discipline no later than 30 days following the order of the board pursuant to subsections (H)(9)(b) and (H)(25), unless the board extends the time for good cause.
- (5) File the formal statement of charges with the disciplinary clerk and arrange for service no later than 30 days following the order of the board, pursuant to subsection (H)(10), unless the board extends the time for good cause.
- (6) Serve the board's order of emergency summary suspension and expedited hearing immediately on the certificate holder, pursuant to subsection (H)(9)(d)(2).
- (7) Except as provided in subsections (H)(1)(i)(6) and (8), deposit in the United States mail addressed to the last known address on file with division staff, written notice of the board's final decision and order, regarding a complaint matter, to the certificate holder and complainant within ten days after the board's decision, pursuant to subsection (H)(26)(b) and (c). Notice by mail is complete upon deposit in the United States mail.
- (8) Mail the board's final order of suspension or revocation of the certificate, pursuant to subsection (H)(26)(b) to the certificate holder, by certified mail return receipt requested, within two days, after the board's decision, addressed to the last known address on file with division staff; and
- (9) Process complaints timely, with the goal of processing 98 percent of all complaints within 22 months from date of receipt to final decision by the board.

2. Initial Screening of a Complaint. Upon receipt of a complaint:

a. Division staff shall:

- (1) Consider if a complaint:
 - (a) Falls outside the supreme court's jurisdiction;
 - (b) Does not provide the name of a certificate holder;
 - (c) Does not contain sufficient information to permit an investigation;
 - (d) Does not provide specific allegations of acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA;
 - (e) Contains allegations of acts of misconduct or violations, that if true, would not constitute a violation of the statutes, court rule, this section or the applicable section of the ACJA, the certificate holder is required to comply with;
 - (f) Does not provide the name of the complainant; or
 - (g) Does warrant further investigation and evaluation.
- (2) Recommend the division director dismiss the complaint if the complaint:
 - (a) Falls outside the jurisdiction of the supreme court, court rules, this section, the applicable section of the ACJA, or the laws applicable to the certificate holder;
 - (b) Does not provide the name of a certificate holder;
 - (c) Does not contain sufficient information to permit an investigation;
 - (d) Does not provide specific allegations of acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA;
 - (e) Contains allegations of acts of misconduct or violations that if true, would not constitute a violation of the statutes, court rules, this section or the applicable

- section the certificate holder is required to comply with; or (f) Does not provide the name of the complainant.
- (3) Report all complaints dismissed by the division director to the board at the next regularly scheduled board meeting following the determination by the division director; and
 - (4) Provide written notice to the complainant and the certificate holder of the division director's decision to dismiss the complaint for the reasons in subsection (H)(2)(b) and (c), within ten days of the division director's decision.
- b. The division director may:
- (1) Direct division staff to return an incomplete complaint to the complainant for additional information;
 - (2) Dismiss a complaint, pursuant to subsection (D)(4)(a)(2), with or without prejudice, if the complaint falls outside the jurisdiction of the supreme court, the statutes, court rules, this section or the applicable section of the ACJA;
 - (3) Dismiss a complaint, pursuant to subsection (D)(4)(a)(3), with or without prejudice, if the complaint meets any of the criteria of subsection (H)(2)(a)(2)(b) through (f); or
 - (4) Refer the complaint to another state agency or entity with jurisdiction, if appropriate, pursuant to subsection (D)(4)(a)(4).
- c. The division director shall dismiss the complaint, if the complainant does not supply documents or other information to remedy an insufficient complaint or demonstrate the alleged acts of misconduct or violations are within the certificate holder's responsibilities as required by statutes, court rules, this section or the applicable section of ACJA.
- d. The board shall review, pursuant to subsection (D)(5)(c)(1)(e), the division director's dismissal of a complaint and do one of the following:
- (1) Affirm the division director's dismissal; or
 - (2) Request additional investigation of the dismissed complaint; pursuant to subsection (D)(5)(c)(2)(c).
- e. The complainant may request the board review the division director's dismissal of the complaint pursuant to subsection (H)(2)(b) or (c) by submitting a written request for review, specifying the requested reasons for the board's review. The complainant shall submit the request for review to division staff within ten days of the written notice of the division director's dismissal of the complaint.
3. Investigation. Division staff shall investigate the complaint, after completion of the initial screening of the complaint and the determination a complaint is within the jurisdiction of the supreme court and warrants further investigation pursuant to subsection (H)(2)(a)(1)(g).

- a. Preliminary Investigation. Division staff shall conduct an investigation of all complaints not dismissed by the division director to determine if a certificate holder has violated statutes, court rules, this section, or the applicable section of the ACJA; or for the purpose of securing information useful in the lawful administration of the law, this section, or the applicable sections of the ACJA.
- b. Notification to Certificate Holder of Complaint. Division staff shall send the complaint to the certificate holder within fifteen days of receiving the complaint or the date the director initiates a complaint pursuant to subsections (D)(2)(b)(3) and (H)(1)(b)(4)(b).
- c. Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.
 - (1) If the certificate holder is unable to respond to a complaint within the time frame established by subsection (H)(3)(c), the certificate holder may submit a written request to the division director for an extension of time to respond. The request for an extension of time to respond shall demonstrate good cause exists for an extension and shall provide a proposed date for fulfillment of the response requirement. The certificate holder shall file the written request for an extension of time to respond to the complaint, no later than five days prior to the date the response is due.
 - (2) The division director shall determine if good cause exists for an extension. Division staff shall notify the certificate holder of the division director's decision on the request for an extension of time for providing a written response, within five days of the request for extension from the certificate holder.
4. Preparation of Investigation Summary. Upon completion of the investigation, division staff shall prepare a written investigation summary for review by the probable cause evaluator. The investigation summary shall include an analysis of the allegations of misconduct and violations and a recommendation as to whether probable cause exists demonstrating the certificate holder committed any of the alleged acts of misconduct or violations.
5. Probable Cause Review. Pursuant to subsection (H)(4) division staff shall forward the investigation summary to the probable cause evaluator for review and determination as to whether probable cause exists misconduct or violations occurred and are demonstrated in the investigation summary.
 - a. The deputy director, serving in the capacity of probable cause evaluator pursuant to subsection (D)(3)(a), shall review the written investigation summary of the allegations

of acts of misconduct or violations. The deputy director may agree or disagree with the recommendations contained in the summary and may do one or more of the following:

- (1) Direct division staff to investigate further;
 - (2) Determine probable cause does not exist demonstrating the certificate holder has committed any acts of misconduct or violations of the statutes, court rules, this section, or the applicable section of the ACJA and enter a written finding to that effect; or
 - (3) Determine probable cause exists demonstrating the certificate holder has committed one or more acts of misconduct or violations of the statutes, court rules, this section, or the applicable section of the ACJA and enter a written finding to that effect.
- b. If the probable cause evaluator directs division staff to investigate the complaint further, pursuant to subsection (H)(5)(a)(1), division staff shall do so immediately.
- c. Upon review of the finding by the probable cause evaluator, pursuant to subsection (H)(5)(a)(2) and (3), division staff shall forward to the board, pursuant to subsection (H)(1)(i)(2), the investigation summary, finding by the probable cause evaluator and a written recommendation by the division director for the appropriate disposition of the complaint. The written recommendation by the division director shall include any sanctions if applicable, pursuant to subsections (H)(7), (H)(9), (H)(24)(a)(6) and (H)(24)(b). The board shall review these documents at the next regularly scheduled board meeting and do one of the following:
- (1) Determine the certificate holder did not commit any acts of misconduct or violations and dismiss the complaint pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(3);
 - (2) Determine the allegations of acts of misconduct or violations do not warrant discipline pursuant to subsection (D)(5)(c)(1)(g), but the certificate holder's actions need modification or elimination and send an advisory letter to the certificate holder pursuant to subsections (H)(24)(a)(4) and (H)(24)(b)(1);
 - (3) Determine the allegations of acts of misconduct or violations may be resolved through informal discipline proceedings pursuant to subsection (H)(7);
 - (4) Determine the acts of misconduct or violations may be resolved through a formal interview, pursuant to subsection (H)(8);
 - (5) Determine the acts of misconduct or violations may be resolved through a formal discipline proceeding, pursuant to subsection (H)(9); or
 - (6) Determine the acts of misconduct or violations pose harm or a risk to the public health, safety or welfare and require resolution through an emergency summary suspension, pursuant to subsection (H)(9)(d). An emergency summary suspension is a formal discipline proceeding.
6. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

- a. Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;
- b. Failed to comply with or complete a corrective action plan resulting from an audit or course monitoring;
- c. Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request;
- d. Aided or assisted another person or business entity to provide services requiring certification if the other person or entity does not hold the required certification;
- e. Conviction of a criminal offense while certified by final judgment of a felony relevant to certification;
- f. Failed to provide information regarding a criminal conviction;
- g. Exhibited gross negligence;
- h. Exhibited incompetence in the performance of duties;
- i. Evaded service of a subpoena or notice of the director, division director or board;
- j. The existence of any cause for which original certification or renewal of certification could have been denied pursuant to subsections (E)(2)(c) or (G)(4)(c) and the applicable section of the ACJA;
- k. Engaged in unprofessional conduct, including:
 - (1) Assisted an applicant or certificate holder in the use of deception, dishonesty or fraud to secure an initial certificate or renewal of a certificate;
 - (2) Failed to comply with any court order, board order or other regulatory agency order relevant to the profession or occupation;
 - (3) Failed to comply with any federal, state or local law or rule governing the practice of the profession or occupation;
 - (4) Failed to comply with any terms of a consent agreement, restriction of a certificate or corrective action plan;
 - (5) Failed to retain client or customer records for a period of three years unless law or rule allows for a different retention period;
 - (6) Failed to practice competently by use of unsafe or unacceptable practices;
 - (7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

- (8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;
- (9) Used advertising intended to or having a tendency to deceive the public;
- (10) Used a supreme court certification to deceive the public in level of skills or abilities;
- (11) Willfully made or filed false reports or records in the practice of the profession or occupation;
- (12) Failed to file required reports, records or pleadings in the practice of the profession or occupation;
- (13) Delegated professional or occupational responsibilities or duties to an employee or person who the certificate holder knows does not possess the necessary level of education, experience, skills or credentials to perform the duties of the profession or occupation unless authorized to do so by the applicable section of the ACJA;
- (14) Performed the responsibilities or duties of the profession or occupation when medically or psychologically unfit to do so;
- (15) Engaged in habitual substance abuse;
- (16) Engaged in undue influence over a client or customer to the benefit, financial or otherwise, of the certificate holder or a third party; or
- (17) Violated any statutory, court rule, or the applicable ACJA section regarding a confidentiality requirement.

7. Informal Disciplinary Proceedings.

- a. Commencement. Following entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsections (H)(5)(a) and (c), the board may commence informal disciplinary proceedings if the board finds the complaint is appropriate for resolution through informal disciplinary proceedings.
- b. Decision of the Board. The board may resolve the complaint through informal disciplinary proceedings and impose an informal sanction pursuant to subsection (H)(24)(a)(6)(a) or may take other action pursuant to this section. The Board, pursuant to subsection (D)(5)(c)(1)(f)(iv), shall order the preparation of documents necessary to commence informal disciplinary proceedings. The board may make procedural determinations to consolidate or sever any informal discipline matter pursuant to subsection (D)(5)(c)(2)(e). The provisions of subsections (H)(24) and (H)(25) apply to the decision and order of the board. Informal disciplinary proceedings:
 - (1) Do not provide the certificate holder the right to a hearing;
 - (2) May result in the informal sanction of a letter of concern;
 - (3) Are not subject to special action proceedings pursuant to subsection (H)(27); and
 - (4) Are not confidential.

8. Request for Formal Interview. Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsections (H)(5)(a) and (c), and a board determination formal discipline is warranted, but before the filing of the formal statement of charges, the board may request a formal interview with a certificate holder, pursuant to subsection (D)(5)(c)(2)(d). The request for a formal interview is to determine if the facts of the complaint may be capable of resolution outside of a formal disciplinary process by consent agreement or other negotiated settlement, pursuant to subsection (H)(24)(a)(6)(c) between the board and certificate holder. The board shall hold the formal interview at the next regularly scheduled board meeting, unless the board determines good cause to expedite the interview.
 - a. Once the board determines a formal interview is necessary, division staff shall provide the certificate holder a copy of the investigation summary, finding by the probable cause evaluator and the written recommendation by the division director for the appropriate disposition of the complaint. Division staff shall also provide written notice of the day and time of the scheduled interview. If the certificate holder declines the board's request for an interview, the certificate holder does not forfeit the right to request a hearing pursuant to subsection (H)(12).
 - b. If the certificate holder declines the board's request for a formal interview, or if the division director's recommended sanctions for future found violations include a suspension of more than twelve months or revocation, the board shall order the preparation of documents necessary for a filing of a formal statement of charges pursuant to subsections (D)(5)(c)(1)(f)(iv) and (H)(9)(b). The board may consolidate or sever any discipline matter pursuant to subsection (D)(5)(c)(2)(e).
 - c. Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder merits a suspension of more than twelve months or revocation of the certificate, the board shall order the preparation of documents for filing a formal statement of charges, pursuant to subsections D(5)(c)(1)(f)(iv) and H(9)(b).
 - d. Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder demonstrates the public's health, safety, or welfare requires emergency action, the board shall issue an emergency summary suspension order pursuant to subsections (D)(5)(c)(1)(f)(v) and H(9)(d).
 - e. Upon completion of the formal interview, if the board determines the evidence obtained during the investigation or provided by the certificate holder does not merit a suspension of more than twelve months, revocation, or an emergency summary suspension, the board may take one or more of the following actions:
 - (1) Determine the certificate holder did not commit any acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the

ACJA and dismiss the complaint pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(3);

- (2) Determine the allegations of acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA, do not warrant discipline, but the certificate holder's actions need modification or elimination and send an advisory letter to the certificate holder, pursuant to subsections (D)(5)(c)(1)(g), (H)(24)(a)(4) and (H)(24)(b)(1);
 - (3) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through informal discipline proceedings pursuant to subsections (D)(5)(c)(1)(g) and (H)(7);
 - (4) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through a consent agreement as part of formal disciplinary proceedings, pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(6)(c); or
 - (5) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA and the complaint is appropriate for resolution only through formal discipline proceedings, pursuant to subsection (D)(5)(c)(1)(g) and (H)(9).
- f. If the board, after the formal interview is concluded, determines the acts of misconduct or violations warrant an emergency summary suspension, the board shall make an order for an expedited hearing, pursuant to subsections (H)(9)(d)(1) and (H)(12)(d).

9. Formal Disciplinary Proceedings.

- a. Commencement. Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(c), the board may commence formal disciplinary proceedings.
- b. Decision of the Board. On review of the recommendation of the division director, the board may resolve the complaint through formal disciplinary proceedings and impose informal and formal sanctions pursuant to subsection (H)(24)(a) and (b) or may take other actions pursuant to this section. The board, pursuant to subsection (D)(5)(c)(1)(f)(iv) shall order the preparation of the documents necessary to commence formal disciplinary proceedings. The board may make procedural determinations to consolidate or sever any formal disciplinary matter pursuant to (D)(5)(c)(2)(e). The provisions of subsections (H)(24) and (H)(25) apply to the decision and order of the board. Formal disciplinary proceedings:
 - (1) Provide the certificate holder the right to a hearing, pursuant to subsection (H)(12)(c);
 - (2) May result in informal and formal sanctions, including an emergency summary suspension pursuant to subsections (H)(24)(5) and (6);

- (3) May result in costs and civil penalties pursuant to subsections (H)(24)(6)(j) and (k);
 - (4) Are subject to special action proceedings pursuant to subsection (H)(27); and
 - (5) Are not confidential.
- c. Notice to Certificate Holder. Upon commencement of formal disciplinary proceedings by a board order, division staff shall notify the certificate holder of the board's order and provide the certificate holder with a copy of the investigation summary, the division director's recommendations and the deputy director's finding of probable cause.
- d. Emergency Summary Suspension.
- (1) Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(c), if the board finds the public health, safety or welfare is at risk and requires emergency action, the board shall order an immediate emergency summary suspension of a certificate and set a date for an expedited hearing while formal disciplinary proceedings are pending.
 - (2) Division staff shall ensure the order of emergency summary suspension is immediately served on the certificate holder with the notice of the emergency summary suspension and the expedited hearing as ordered by the board, pursuant to this subsection and subsection (H)(12)(d).
 - (3) The hearing shall be held within ten days of the board's order of summary suspension.
 - (4) The hearing officer shall only grant an extension of the ten day time period for holding the expedited hearing under extraordinary circumstances at the request of either party. The certificate holder may consent to a longer time period for the extension and the reasons for the extension shall be part of the record.
 - (5) Division staff shall notify all applicable courts including superior court presiding judges, clerks of the superior court and superior court administrators of the emergency summary suspension.
10. Notice of Formal Statement of Charges and Proceedings; and Right to Hearing. Upon motion and order of the board, division staff shall:
- a. Prepare the formal statement of charges pursuant to subsection (H)(1)(i)(4) and include in the statement all of the following:
 - (1) A short and plain statement of the allegations;
 - (2) A reference to statutes, court rules, this section and the applicable ACJA section;
 - (3) A statement indicating the certificate holder has the right to a hearing, pursuant to subsection (H)(12)(c);
 - (4) A statement indicating the request for hearing shall be in writing and made within fifteen days of receipt of the notice, pursuant to subsection (H)(13); and
 - (5) A statement of the requirements for filing an answer pursuant to subsections (H)(11) and (17).

- b. Present the formal statement of charges to the board chair or designee for review and signature;
 - c. File the signed formal statement of charges with the disciplinary clerk;
 - d. Arrange for service of the notice of formal statement of charges to the certificate holder pursuant to Rule 4, Rules of Civil Procedure; and
 - e. Amendments to the formal statement of charges are permissible upon motion and order of the board.
11. Answer to Formal Statement of Charges or Default. The certificate holder shall file an answer to the formal statement of charges within fifteen days after the date the statement is served, unless otherwise ordered by the board for good cause. Answers shall comply with Rule 8, Rules of Civil Procedure. Any defenses not raised in the answer are waived. If a certificate holder fails to file an answer within the time provided, the certificate holder is in default and the factual allegations in the formal statement of charges are deemed admitted. The board may enter a finding or findings against the certificate holder of one or more of the assertions contained in the notice.
12. Right to Hearing.
- a. Except as provided in subsection (E)(1)(f)(2)(d)(iii), an applicant denied initial or renewal certification pursuant to subsections (E)(2)(c) or (G)(4) may request a hearing.
 - b. Pursuant to subsection (E)(9)(b), an applicant denied reinstatement of certification may request a hearing, except if the applicant fails to provide required information within the requested time frame.
 - c. A certificate holder served with a formal statement of charges pursuant to subsection (H)(9) may request a hearing.
 - d. A certificate holder issued an emergency summary suspension pursuant to subsection (H)(9)(d)(1) shall have an expedited hearing.
13. Request for Hearing. The applicant or certificate holder shall request the hearing within fifteen days of the notice of denial of initial or renewal certification; or the notice of a formal statement of charges. The request shall include the ACJA subsection entitling a person or business to a hearing, the factual basis supporting the request for hearing and the relief demanded.
14. Selection of Hearing Officer for Certification or Discipline Hearing. Upon written request by an applicant or certificate holder entitled to a hearing pursuant to subsection (H)(12), the disciplinary clerk shall select a hearing officer.

- a. The disciplinary clerk shall select a hearing officer from the list of hearing officers appointed by the supreme court. The hearing officer shall have the following qualifications:
 - (1) Admitted to the practice of law in Arizona; and
 - (a) An active member in good standing for at least seven years with the State Bar of Arizona; or
 - (b) An active or retired judicial officer.
 - (2) Have knowledge in the procedure for conducting administrative hearings regarding the denial of initial or renewal of certification or alleged acts of misconduct or violations by a certificate holder pursuant to this section or the applicable ACJA section.
- b. The disciplinary clerk may request the presiding judge of the superior court in the county where the alleged acts of misconduct or violations occurred to supply a hearing room and any other necessary resources.

15. Time Line for Hearing. The disciplinary clerk or hearing officer shall:

- a. Ensure the hearing is held within 60 days of receipt of the request for hearing. The hearing officer may continue the hearing date upon request or stipulation of the parties, or upon the hearing officer's own motion, for good cause shown. The hearing officer shall grant continuances no more than 30 days at a time and may not extend the hearing on the merits beyond 120 days from the filing of the formal statement of charges.
- b. If the request to continue the hearing is filed by division staff, the hearing officer shall ensure the hearing is held as soon as practical at the discretion of the hearing officer but no less than fifteen days after notice, as required by subsection (H)(16).

16. Notice of Hearing. The disciplinary clerk shall prepare and give notice of the hearing to the applicant or certificate holder and division staff, at least fifteen days prior to the date set for hearing.

- a. The notice shall include the following information:
 - (1) A statement of the legal authority and jurisdiction for conduct of the hearing;
 - (2) A statement of the date, time, place and nature of the hearing; and
 - (3) A reference to the particular sections of the statutes, rules and ACJA sections involved.
- b. The disciplinary clerk shall accomplish service of the notice of hearing by United States mail to the last address of record on file with division staff. Service is accomplished in accordance with Rule 5, Rules of Civil Procedure by deposit in the United States mail.
- c. If an attorney represents an applicant, certificate holder or division staff, the disciplinary clerk shall make service to the attorney of record.

17. Filings of Pleadings, Motions and Other Documents.

- a. The applicant or certificate holder and division staff shall file all pleadings, motions or other documents with the disciplinary clerk at least fifteen days prior to the scheduled hearing date, unless otherwise ordered by the hearing officer.
- b. The applicant or certificate holder and division staff shall file responses to all pleadings, motions, or other documents with the disciplinary clerk within ten days of the filing of the pleading, motion, or other document.
- c. The party filing the pleading, motion, or other document may reply within five days of the filing of the response to the motion.
- d. Copies of all filings shall be delivered to the disciplinary clerk, the hearing officer and all parties to the proceeding.

18. Discovery.

- a. There is no discovery, except as provided in this section, unless mutually agreed to by the parties or ordered by the hearing officer.
- b. The hearing officer, upon written request, shall order a party to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing, provided the evidence is not privileged.
- c. Upon the hearing officer's own motion or request by a party, the hearing officer shall order the disclosure of documentary evidence intended for use at the hearing provided the evidence is not privileged. The hearing officer shall order the disclosure at least ten days prior to the hearing.
- d. A hearing officer shall review and rule upon any claims of privilege challenged by a party with respect to subsections (H)(18)(b) and (c).
- e. Within fifteen days of receipt of the notice of hearing, the parties shall exchange a list of witnesses containing the names, addresses and telephone numbers of all persons known to have knowledge of the relevant facts. The list of witnesses shall designate those persons the parties intend to call at the hearing and summarize the anticipated testimony of each witness.
- f. Parties may submit a motion to the hearing officer to take depositions of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing, for use as evidence at the hearing. The hearing officer may order the deposition of any other witness upon motion and for good cause shown. In either circumstance, the requesting party shall file a written motion for deposition with the hearing officer within ten days of the filing of the list of witnesses. The requesting party shall provide copies to all parties, setting

forth the name and address of the witness, subject matter of the deposition, documents, if any, the parties are seeking for production, time and place proposed for the deposition and justification for the deposition.

- g. Parties shall file responses to requests for depositions, including motions to quash, within five days after the filing of the request for deposition. The hearing officer shall enter a final order regarding any motions for depositions.
- h. If a deposition is permitted and ordered by the hearing officer, the hearing officer shall issue a subpoena and written order. The subpoena and order shall identify the person to be deposed, scope of testimony to be taken, documents, if any, to be produced and the time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order with service on all parties five days before the time fixed for taking the deposition unless, for good cause shown, the time is shortened by the hearing officer.

19. Subpoena.

- a. For the purpose of the hearing, a hearing officer may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the subject of any hearing.
- b. Subpoenas shall be issued by a hearing officer and served in the same manner as provided by Rule 45, Rules of Civil Procedure. An employee of the court or any other person as provided by Rule 45, Rules of Civil Procedure may serve the subpoena.
- c. If a person fails to obey a subpoena served in accordance with the provisions of this section, the board or hearing officer may forward a report of the disobedience, together with a copy of the subpoena and proof of service, to the superior court and request the superior court judge issue an order requiring the appearance by a person or the production of documents, or both. The superior court may treat the failure to obey the subpoena as contempt of court and may impose penalties as though the person had disobeyed a subpoena issued by the court.

20. Prehearing Conference. The hearing officer may order and conduct a pre-hearing conference at the request of any party or on the hearing officer's own initiative. The purpose of the conference is to consider imposing limitations to promote simplicity in procedures, fairness in administration, elimination of unnecessary expense and protection of the public while preserving the rights of the certificate holder. The hearing officer may take any of the following actions:

- a. Establish a hearing schedule to ensure early and continuing control so the matter shall not be protracted because of lack of management;
- b. Dispose of outstanding procedural matters;
- c. Narrow the issues for adjudication;

- d. Dispose of preliminary legal issues, including ruling on pre-hearing motions;
- e. Obtain stipulations from the parties to the admission of evidence, facts and legal conclusions not contested;
- f. Identify witnesses and coordinate testimony; and
- g. Consider any other matters to aid in the expeditious conduct of the hearing.

21. Procedure at Hearings.

- a. **Hearing Officer.** The hearing officer shall preside over the hearing and decide all requests for a continuance, motions, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, recess or adjourn the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.
- b. **Rights of Parties and Other Persons at a Hearing.** At a hearing:
 - (1) A party is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the conduct of the proceeding.
 - (2) An applicant or certificate holder may represent themselves or appear through counsel. An attorney who intends to appear on behalf of a party shall promptly file
 - (a) notice of appearance with the disciplinary clerk providing the name, address and telephone number of the party represented and the name, address and telephone number of the attorney. A corporate officer or principal may represent a business entity in any proceeding under this section, as permissible pursuant to Arizona Supreme Court Rule 31.
 - (3) All persons appearing before a hearing officer in any proceeding shall conform to the conduct expected in the superior court.
- c. **Conduct of Hearing.**
 - (1) All hearings are open to the public and shall conform to the provisions of ACJA § 1-202: Public Meetings. The hearing officer may close the hearing to the public, pursuant to ACJA § 1-202(C)(5).
 - (2) The hearing officer may conduct a hearing in an informal manner and without adherence to the rules of pleading or evidence. The hearing officer may question witnesses and shall require any evidence supporting a decision is substantial, reliable and probative and shall exclude irrelevant, immaterial or unduly repetitious evidence. There is no right to a jury.

- (3) The hearing officer shall require all testimony taken is under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation. The hearing officer may administer oaths and affirmations.
- (4) In all formal disciplinary matters brought as the result of an order by the board, evidence in support of the formal statement of disciplinary charges is presented first and carries the burden of proof by a preponderance of the evidence. In matters brought at the request of any other person or entity, including requests for hearing on the denial of initial or renewal of certification, the person or entity seeking the hearing shall present first and carries the burden of proof, by a preponderance of the evidence.

d. Record of Hearing.

- (1) The hearing officer shall ensure the oral proceedings, or any part of the oral proceedings, are recorded. Upon the request of any party to the proceedings and payment of any costs, the record of the proceedings shall be transcribed.
- (2) A certified reporter shall make a full transcript of the proceedings if requested by a party within five days prior to a hearing and upon order of the hearing officer. The requesting party shall pay the cost of the transcript. The hearing officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the record is part of the court's record of the hearing and any other party with a direct interest shall receive a copy of the record, at the request and expense of the requesting party.

22. Recommendation Report of Hearing Officer.

- a. The hearing officer shall, within 30 days of the closing of the record of a hearing, prepare a written recommendation report and file the report with the disciplinary clerk. The recommendation report shall include findings of fact, based on a preponderance of the evidence and conclusions of law, separately stated.
- b. The hearing officer shall take testimony and receive evidence regarding alleged acts of misconduct or violations and possible sanctions. If the hearing officer recommends the board enter a finding the certificate holder committed one or more acts of misconduct or violations, the hearing officer shall include in the recommendation report, in a separately stated section, an analysis of mitigating and aggravating factors and recommended imposition of permissible sanctions pursuant to subsection (H)(24). The hearing officer shall base the recommendations exclusively on the matters officially noticed and the evidence presented.
 - (1) Mitigating factors may include but are not limited to the following:
 - (a) The absence of a prior disciplinary record;
 - (b) The absence of a dishonest motive;
 - (c) The absence of a selfish motive;
 - (d) Personal or emotional problems;

- (e) A timely good faith effort to make restitution or to rectify consequences of misconduct;
 - (f) Full and free disclosure to the division staff, the board or the hearing officer;
 - (g) A cooperative attitude toward any proceedings;
 - (h) Inexperience in the practice of the profession or occupation;
 - (i) Character or reputation;
 - (j) Physical or mental disability;
 - (k) Physical or mental impairment;
 - (l) Delays in the disciplinary proceedings;
 - (m) Interim rehabilitation;
 - (n) Imposition of other penalties or sanctions;
 - (o) Remorse; or
 - (p) The remoteness of prior offenses.
- (2) Aggravating factors may include but are not limited to the following:
- (a) A prior disciplinary record;
 - (b) A dishonest motive;
 - (c) A selfish motive;
 - (d) Multiple offenses;
 - (e) Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with this section, the applicable section of ACJA, court rules or orders of the hearing officer;
 - (f) Submission of false evidence, false statements or other deceptive practices during the discipline process;
 - (g) Refusal to acknowledge wrongful nature of the conduct;
 - (h) Vulnerability of the victim;
 - (i) Substantial experience in the profession or occupation; or (j) Indifference to making restitution.
- c. The disciplinary clerk shall distribute the hearing officer recommendation report to all parties and the board by United States mail to the last address on file with the division staff. Distribution is accomplished in accordance with Rule 5, Rules of Civil Procedure by deposit in the United States mail.
- d. The board may adopt or modify the hearing officer's recommendation report in whole or in part.
- e. The board may remand the matter to the hearing officer in whole or in part, designating the issues remanded. The board shall provide the hearing officer with an order identifying the issues remanded.
23. Rehearing. A party to the hearing may request a rehearing of the matters involved in the hearing. The requesting party shall file the written request with the hearing officer and the disciplinary clerk within fifteen days after the disciplinary clerk has distributed the hearing officer's recommendation report to the parties pursuant to subsection (H)(22)(c). The requesting party shall base the request for rehearing on one or more of the grounds listed in Rule 59, Rules of Civil Procedure. The hearing officer shall allow any party served with

a request for rehearing to file a response within ten days of service. The hearing officer may grant a rehearing of the matters involved in the hearing and shall make the decision to grant or deny the request within ten days of the date the response for rehearing is filed.

24. Possible Actions for Resolution of a Complaint.

a. Upon completion of an investigation concerning alleged acts of misconduct or violations by a certificate holder, which may or may not include a formal interview, informal or formal disciplinary proceedings, or a hearing, the board shall do one or more of the following:

- (1) Request division staff to conduct further investigation;
- (2) Refer the complaint to another entity with jurisdiction;
- (3) Determine no violation exists and dismiss the complaint with or without prejudice;
- (4) Determine no acts of misconduct or violation occurred and no discipline is warranted; however, the certificate holder's actions need modification or elimination and issue an advisory letter pursuant to subsection (D)(5)(c)(1)(g);
- (5) Enter a finding the certificate holder has violated any of the provisions of the statutes, court rules, this section, or the applicable ACJA specific sections or subsection (H)(6) and order an emergency summary suspension, pursuant to subsection (H)(9)(d);
- (6) Enter a finding the certificate holder has violated any of the provisions of the statutes, court rules, this section, the applicable ACJA sections or subsection (H)(6) and issue an order imposing any or a combination of the following informal or formal disciplinary sanctions:
 - (a) Issue a letter of concern;
 - (b) Issue a censure;
 - (c) Resolve any found acts of misconduct or violations by consent order or other negotiated settlement;
 - (d) Place specific restrictions on a certificate;
 - (e) Place the certificate holder on probation for a set period of time under specified conditions;
 - (f) Mandate additional training for the certificate holder;
 - (g) Issue a cease and desist order pursuant to subsection (E)(6);
 - (h) Order suspension of a certificate for a set period of time with specific conditions for reinstatement;
 - (i) Order revocation of a certificate with specific conditions for reinstatement;
 - (j) Assess costs associated with the investigation and disciplinary proceedings; or
 - (k) Impose civil penalties associated with the investigation and disciplinary proceedings.

b. The following provisions apply to the actions specified in subsection (H)(24)(a):

- (1) An advisory letter is not a discipline sanction and is confidential. While the conduct does not warrant any disciplinary action, the board believes the certificate holder should modify or eliminate certain practices and continuation of the activities

leading to the documentation regarding the conduct being submitted to the board may result in future board action against the certificate holder. A certificate holder may file a response with the board no later than fifteen days after the date of the advisory letter. The certificate holder's response is confidential and division staff shall file the response in the complaint file.

(2) An informal disciplinary proceeding may result in a letter of concern but may not include a censure, restrictions on a certificate, probation, mandated additional training, suspension or revocation of the certificate, or imposition of civil penalties or costs. A letter of concern is a written informal discipline sanction and is not confidential or appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.

(3) The board may impose informal discipline in combination with formal discipline.

25. Decisions and Orders. The board shall make final decisions or orders in writing and shall include findings of fact and conclusions of law, separately stated. The board shall make findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed and consider mitigating or aggravating factors pursuant to subsections (H)(22)(b)(1) and (2).

26. Notice of Board's Final Decision. Upon final order of the board regarding a certification or complaint matter, division staff shall provide written notice of the board's final decision and order:

- a. Regarding an initial or renewal certification matter, to the applicant or certificate holder within ten days, by deposit in the United States mail addressed to the last known address on file with division staff. Notice by mail is complete upon deposit in the United States mail.
- b. Regarding suspension or revocation of certification to the certificate holder by certified mail, return receipt requested, within two days, addressed to the last known address on file with division staff pursuant to subsection (H)(1)(i)(8). Division staff shall ensure the order of emergency summary suspension is immediately served on the certificate holder pursuant to subsection (H)(9)(d)(2). Division staff shall send any other disciplinary order by the board, not involving suspension or revocation of certification, to the certificate holder within ten days by deposit in the United States mail addressed to the last known address on file with division staff, pursuant to subsection (H)(1)(i)(7). Notice by mail is complete upon deposit in the United States mail.
- c. Regarding a complaint matter, to the complainant within ten days, pursuant to subsection H(1)(i)(7), by deposit in the United States mail addressed to the last known address on file with division staff. Notice by mail is complete upon deposit in the United States mail.

27. Filing of Special Action. Decisions of the board pursuant to this section and the applicable ACJA sections are final. Parties may seek judicial review through a petition for a special action within 35 days after entry of the board's final order. The petition for special action shall be pursuant to the Arizona Rules of Procedure for Special Actions.

I. Policies and Procedures for Board Members. The purpose of a board is to assist the supreme court in the protection of the public through the certification and oversight of certificate holders, to ensure conformance by certificate holders to the highest ethical standards and performance of responsibilities in a professional and competent manner.

1. Establishment of Boards and Appointment and Terms of Members. The establishment of the boards and the appointment and terms of members are specified in subsections (D)(5)(a) and (b).

2. Role and Responsibilities of Board Members. In addition to the provisions of subsection (D)(5)(c), the following provisions apply:

a. Role. The primary role of the board members is protection of the public through the fair and impartial application of the applicable section of the ACJA and court rules. Members should consider the views and interests of regulated professionals and the profession; however, members shall balance this against the member's primary role of protection of the public.

b. Attendance. Members shall attend and actively participate in board meetings and assist with the administration of board affairs. Regular attendance by each member of the board helps ensure full contribution of all members. Therefore, members are required to regularly attend and participate in board meetings. The board chair shall address a board-attendance issue regarding a member as follows:

(1) A board-attendance problem occurs if a member:

- (a) Has two consecutive un-notified absences where the member did not provide advance notification to division staff the member would be absent;
- (b) Has three consecutive absences where the member did provide advance notification to division staff the member would be absent; or
- (c) Misses one third of the total number of regular board meetings in a twelve month period.

(2) Upon determination of a board-attendance problem, the chair shall discuss the issue with the member. The chair shall share the member's response at the next board meeting and the board shall consider the appropriate action to take regarding the member's membership on the board. If the board decides to recommend to the chief justice for the termination of the membership of the member, the chair shall inform the member of the board's decision. The chair shall request a letter of resignation from the member and the return of any board materials. The board shall

promptly initiate the process for the recruitment and recommendation of a new member.

- c. Expenses. Members shall not receive compensation for their services, but may receive reimbursement for their travel and other expenses incidental to the performance of their duties, pursuant to the adopted state guidelines.
- d. Gifts and Awards. A member shall not solicit or accept any gift or award from any professional certified individual, business or association, including a testamentary gift, unless the member or other recipient of the gift is related to the provider of the gift or award. For the purposes of this paragraph, “gift” includes money, services, travel, food, or entertainment and “related persons” includes a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the member maintains a close, familial relationship. It is acceptable for the board or a member to accept an award, in recognition of service, from an association not directly related to their respective professional association, for example, the American Judicature Society.
- e. Contractual Arrangements. A member shall carefully consider entering into any contractual arrangement with any professional certificate holder for the provision of any services related to the associated profession. The member shall consider whether such an association could result in a conflict of interest, or the appearance of a conflict of interest.
- f. Referrals. A member shall carefully consider whether to recommend the services of any professional certificate holder to a member of the public or to accept a referral from a regulated professional or regulated business. The member shall consider whether a referral could result in a conflict of interest, or the appearance of a conflict of interest.
- g. Professional Associations. A member shall not serve simultaneously as an officer or board member of a professional association for the regulated profession and as a member of the board.

3. Organization.

- a. Chair. The chief justice shall designate the chair of the board, unless otherwise designated by the applicable ACJA section. If the chair resigns or ceases to be a member of the board, the chief justice shall appoint another person, either an existing member of the board or a new appointee, to serve as chair. The chair shall perform the duties normally associated with the office and shall preside over all general meetings of the board.
- b. Vice Chair. The board shall elect a vice chair from among the appointed members of the board. The vice chair shall serve in the capacity as vice chair for a specified term.

If the vice chair resigns or ceases to be a member of the board, the board shall vote to elect a new vice chair from among the existing members. The vice chair shall act as chair in the absence of the chair.

- c. Subcommittees. The chair or the board may establish such subcommittees as deemed necessary to adequately serve the needs of the applicable program. Each subcommittee shall consist of a chair to be named by the board chair or the board and members who volunteer and are approved for service. The chair or the board may appoint additional individuals who are not appointed members of the board to a subcommittee. A subcommittee shall exist only so long as it serves a current, useful purpose. A subcommittee may be dissolved by the board chair or the board if it is deemed it has fulfilled its purpose.

4. Meetings.

- a. Regular Meetings. The board shall meet no less than six times per year for regular meetings, unless other applicable ACJA sections state otherwise. The board chair may call additional regular meetings at the discretion of the board chair.
- b. Emergency Meetings. The board chair may call emergency meetings of the board upon a showing of good cause, including consideration of the emergency suspension of a certificate pursuant to subsection (H)(5)(c)(6).
- c. Public Notice. All meetings shall be publicly noticed and open to the public, in compliance with ACJA § 1-202.

5. Actions.

- a. Voting. A majority of the votes shall decide motions arising at any meeting of the board. All members may vote on any motion. All votes shall be taken by voice vote, signified by “aye” or “nay.” Any board member may require a recorded vote, to include the number of “ayes” or “nays” and the specific vote of the member requesting the recorded vote. In the case of an equality of votes the motion is defeated. A declaration by the chair a motion has carried and an entry to that effect in the minutes is admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favor of or against such resolution being necessary.
- b. Recusal. A member shall recuse from discussing and voting on an issue pertaining to an applicant or certificate holder who is related to the member or in any other situations where there is a conflict of interest, or may be the appearance of a conflict of interest.

(1) For the purposes of this subsection:

- (a) “related” includes the relationships of parent, child, sibling, spouse or cohabitant;

- (b) “conflict of interest” includes situations where the member has a direct or indirect substantial interest in any contract, sale, purchase or service to the board or the AOC or who has, or whose relative has, a substantial interest in any decision of the board, or the existence of any situation where there is, or may be an appearance that the relationship is one that would affect the member’s ability to be impartial. The fact a member or the entire board has been named in a lawsuit by an applicant or certificate holder does not automatically constitute a conflict of interest requiring the recusal of the member in an issue relating to the applicant or certificate holder.
 - (2) The purpose of this recusal provision is to remove or limit the possibility of personal influence which might bear upon a member’s official decision, or provide the appearance of any impropriety in the member’s decision.
 - (3) A member may seek legal advice regarding specific conflicts of interest or other ethical issues pertaining to membership and action from the AOC legal counsel.
 - (4) The member shall recuse at the beginning of the discussion of the issue by the board, or at the first instance the member realizes the conflict. The member shall not participate in the discussion by the board and shall leave the meeting room during board discussion of the issue in executive session. The recusal shall be noted in the official minutes of the meeting.
 - c. A member shall not designate a proxy for attendance or voting.
- 6. Staff. Under the direction of the chief justice, the director shall provide staff to assist and support the board and may conduct or coordinate research as recommended by the board.
- 7. Communications.
 - a. Board members shall not engage in improper ex parte communications with a hearing officer, other board members or division staff as to the merits of a case regarding an individual or business entity application for certification or a complaint alleging acts or misconduct or violations of statutes, court rules, or the ACJA that have been filed against a certificate holder. Except as may be provided in the applicable sections of the ACJA, all communications among a board member, division staff or a hearing officer in these situations shall occur during board meetings.
 - b. AOC legal counsel shall provide legal advice for the board. The Office of the Arizona Attorney General provides legal representation to the board as an entity or individual member, consistent with the Arizona constitution and statutes. AOC legal counsel shall coordinate with the Attorney General for representation.
 - c. Board members shall not engage in ex parte communications with applicants for certification or certificate holders regarding the board’s action or potential action. Members shall not engage in ex parte communications with any other person, including the attorney of record of an applicant or certificate holder.

- d. Board members should refer all contacts from the media to the AOC public information officer.
- e. Board members shall maintain the confidentiality of all information provided to the board during confidential executive sessions of the board and other documents that are confidential pursuant to court rules or law.
- f. Board members should always be cognizant they are seen as representatives of the board and the program at professional gatherings and in public settings, including, for example, at the legislature. Board members should not speak for the board unless specifically authorized to do so. A board member shall make the following statement, either verbally or in writing, or both, “the views and opinions expressed are my own and do not represent the views or opinion of the board, the AOC or the Arizona Supreme Court.”
- g. Board members shall refer inquiries from the public, certificate holders, applicants for certification and other governmental and private entities regarding matters within the board’s jurisdiction to division staff. Division staff, in coordination with the board chair, shall refer appropriate issues to the full board at a regularly scheduled board meeting.
- h. These provisions apply to all forms of communication, including verbal, written and electronic.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-206: Certified Reporter

A. Definitions. In addition to the definitions in ACJA § 7-201(A), the following definitions apply:

“Affiliate” means an individual or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the individual or entity specified.

“Board” means “the board of certified reporters” as provided in A.R.S. § 32-4002(1).

“Certify” means “board authorization to engage in activities regulated by the board” as provided in A.R.S. § 32-4002(4).

“Certification” means certification that is issued by the board that authorizes the individual to perform reporting as a certified reporter within Arizona.

“Certified reporter” means “a person who is certified by the board and who records and transcribes a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand, machine writing or voice writing” as provided in A.R.S. § 324002(3).

“Chapter” means Title 32, Chapter 40, Board of Certified Reporters, Arizona Revised Statutes.

“Conditional initial certification” means certification granted by the board prior to receipt of state and federal record check results that authorizes the individual certified to perform reporting services only as an official reporter employed by a superior court located in Arizona.

“Registered reporting firm” means an individual or entity that is registered pursuant to this section and for compensation offers to provide or provides reporting services or related services but does not personally provide the service as a certified reporter.

“Report” means “to stenographically or by voice writing record and transcribe sworn proceedings” as provided in A.R.S. § 32-4002(5).

“Voice writing” means “the making of a verbatim record of the spoken word by means of repeating words of the speaker into a device that is capable of digital translation into text” as provided in A.R.S. § 32-4002(6).

B. Applicability.

1. This section applies to the standard certification of reporters pursuant to Arizona Revised Statutes, Title 32, Chapter 40 and 43, and to temporary certification pursuant to Laws 1999, Ch. 335, § 3 and Laws 2000, Ch. 41, § 13. It addresses all components of the certification process including application, fees, criteria for approval or denial of certification, resolution of complaints concerning certified reporters and the discipline and administrative hearing process and is read in conjunction with ACJA § 7-201: General Requirements. In the event of any conflict ACJA § 7-206 shall govern. In the event of any conflict between the applicable statutes and the ACJA sections, the statutes shall govern.

2. A.R.S. § 32-4001 provides “This chapter applies to persons, entities or courts that use stenographic or voice writing means of recording but does not apply to other means of recording. This chapter does not limit the contempt powers of the court or the authority of the court to discipline court employees.”

C. Purpose. A.R.S. § 32-4003(A) provides “A person shall not report proceedings in any court in this state and shall not report depositions in this state for use in any court in this state unless the person is certified pursuant to this chapter.” A.R.S. § 32-4003(D) provides: “It is unlawful for any person who is not certified pursuant to this chapter to represent oneself as a certified reporter.” For eligibility to report a verbatim record in any sworn proceeding in this state for use in any court in this state, all persons shall hold a valid certificate and comply with the requirements of this section. The certified reporter’s transcript is an important document before, during and after a trial. The paper transcript and its electronic version are used for trial preparation, briefs, impeachment purposes and appellate review. Property, freedom and life all can depend on a clear and accurate record. Certified reporting is integrally related to the prompt, effective and impartial operation of the judicial system.

D. Administration.

1. Role and Responsibilities of the Supreme Court. In addition to the requirements of ACJA § 7-201(D), A.R.S. § 32-4007(A) and (C) establishes the certified reporters fund and specifies “The supreme court shall administer the fund” and “The supreme court may receive and expend monies from the fund....”

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

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

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

5. Board of Certified Reporters.

a. Composition. Pursuant to A.R.S. § 32-4004:

A. The board of certified reporters is established consisting of the following members:

1. The chief justice of the supreme court or the chief justice's designee.
2. One judge of the court of appeals who is appointed by the chief justice of the supreme court.
3. One superior court judge who is appointed by the chief justice of the supreme court.
4. Two certified reporters who are residents of this state, who have been official court reporters for at least five years and who are appointed by the chief justice of the supreme court.
5. Two certified reporters who are residents of this state, who have been freelance reporters for at least five years and who are appointed by the chief justice of the supreme court.
6. One attorney who is a resident of this state, who has been licensed to practice law in this state for at least five years and who is appointed by the chief justice of the supreme court.
7. One public member who is appointed by the chief justice of the supreme court.

B. Members who are appointed pursuant to subsection A, paragraphs 2 through 7 serve five year terms. The chief justice shall fill a vacancy for any unexpired portion of a term in the same manner as the original appointment.

C. A majority of the members shall elect a chairperson.

b. Term of Chief Justice or Chief Justice Designee. The member appointed pursuant to § 32-4004(A)(1) shall serve at the pleasure of the chief justice.

c. Duties. These duties are contained in A.R.S. §§ 32-4004(E) and -4005(B). In addition, this subsection should be read in conjunction with ACJA § 7-201(D) which is consistent with A.R.S. §§ 32-4004(E) and -4005(B).

E. Initial Certification.

1. Eligibility for Application. An applicant may apply for initial certification by either:
 - a. Meeting the following minimum requirements:
 - (1) Be at least eighteen years of age.
 - (2) Be a citizen or legal resident of the United States.
 - (3) Satisfy the requirements of A.R.S. § 32-4022.
 - (4) Possess a high school diploma or a general equivalency diploma or a similar document or certificate.
 - (5) Pursuant to rules adopted by the supreme court demonstrate reasonable proficiency in making verbatim records of trial or judicial or related proceedings.
 - (6) Comply with the laws and rules and orders adopted by the supreme court governing certified reporters in this state.
 - (7) Pay the fees established pursuant to A.R.S. § 32-4008.
 - (8) Provide proof of passing the National Court Reporters Association (NCRA) registered professional reporter's examination (RPR) written knowledge test (WKT) and skills knowledge test (SKT) or the National Verbatim Reporters Association (NVRA) certified verbatim reporter's examination (CVR) and also passing the Arizona Written Examination pursuant to ACJA §§ 7-201(E) and subsection (E)(3) of this section.
 - b. Meeting reciprocity requirements:
 - (1) Notwithstanding requirements set forth under Arizona Revised Statutes, Title 32, Chapters 40 and subsection (E)(1)(a) of this section, if an applicant is currently licensed or certified as a reporter in another jurisdiction, certification may be granted if the requirements under A.R.S. § 32-4302 are met.
 - (2) To be certified pursuant to this subsection, the applicant must hold a certificate or license comparable to a "certified reporter" as defined under A.R.S. § 32-4002(3).
 - (3) The applicant must comply with the laws and rules and orders adopted by the supreme court governing certified reporters in this state. (4) The applicant must pay the fees established pursuant to A.R.S. § 32-4008.
2. Fingerprint Requirement for Initial Certification. Applicants for certification shall submit a full set of fingerprints with the fee prescribed in A.R.S. § 41-1750 to the supreme court for the purpose of obtaining a state and federal criminal records check pursuant to A.R.S. § 41-1750 and Public Law 92-544.

3. Examination Requirements for Initial Certification.
 - a. All applicants shall pass a written knowledge test of rules of the supreme court of Arizona and statutes of this state relating to certified reporters.
 - b. An applicant who fails to pass the written examination may apply for reexamination at any time.
4. An applicant shall perform the duties of the profession using only the method of reporting the applicant used to obtain certification.
5. Conditional Initial Certification. Conditional initial certification may be granted prior to receipt of state and federal record check results only for employment by the superior court as an official court reporter and authorizes the individual to provide reporting services only while acting in the course and scope of that employment. The board, upon a request from the Division, shall promptly meet to consider the request for conditional initial certification.
 - a. Except as otherwise set forth in this section, an individual granted conditional initial certification is subject to the professional and ethical responsibilities required by this code section.
 - b. Conditional initial certification terminates upon the occurrence of any of the following:
 - (1) Final action by the board granting or denying certification;
 - (2) Identification by division staff of any arrests or convictions that were not disclosed on the initial application; or
 - (3) Termination of superior court employment.
 - c. Conditional initial certification can be granted only if the applicant has submitted:
 - (1) A complete application for initial certification that contains no information that would preclude certification, with the initial certification fees required by ACJA § 7-206(K);
 - (2) Satisfactory evidence that the applicant is or will be employed by a superior court;
 - (3) Satisfactory proof of compliance with ACJA § 7-206(E)(1)(a) or (b), and (E)(3);
 - (4) A full set of fingerprints as required by ACJA § 7-206(E)(2) and A.R.S. § 324021(A)(9);
 - (5) Written acknowledgement that the issuance of conditional initial certification has no precedential or evidential value in the Board's determination to grant or to deny the person's application for certification; and

(6) Written acknowledgment that the conditional initial certification immediately becomes null and void if the continuing background investigation identifies any arrests or convictions that were not disclosed on the initial application.

d. Applications for initial certification for individuals who have been granted conditional initial certification shall be considered at the next board meeting following receipt of the state and federal record check results and completion of the background check.

6. Decision Regarding Certification. In addition to the requirements contained in ACJA § 7-201(E), the procedures for the decision regarding certification are pursuant to A.R.S. §§ 32-4021(B), -4024(A), -4024(B), and -4302.

a. Approval of Initial Certification. These requirements are contained in ACJA § 7201(E).

b. Denial of Initial Certification. The requirements are contained in ACJA § 7-201(E).

F. Role and Responsibilities of Certified Reporters. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:

1. Code of Conduct. Each certified reporter shall adhere to the code of conduct adopted pursuant to A.R.S. § 32-4005 and subsection (J).

2. Identification. A.R.S. § 32-4003(C) provides “A certified reporter shall include the title ‘certified reporter’ or the abbreviation ‘CR’ and the reporter’s certificate number on the title or cover page of any transcript, on any business card, advertisement or letterhead and on the certificate of any transcript.”

3. Certification of Transcripts, Billings and Business Terms. A certified reporter and registered reporting firm (if the certified reporter is engaged by a registered reporting firm) shall sign and certify each transcript that the certified reporter prepares before the transcript may be used in court, except for transcripts that the reporter prepares for proceedings that occurred before July 1, 2000. Certification shall provide that the certified reporter and registered reporting firm, if applicable, have complied with the ethical obligations set forth in (J)(1)(g)(1) and (2). A certified reporter or registered reporting firm shall also certify each bill or invoice and said certification shall provide that all aspects of the bill and invoice and other business terms comply with the ethical obligations set forth in (J)(1)(g)(3) through (6).

4. Transcript Production. The following requirements apply to transcript production:

- a. Transcript Format. A certified reporter shall prepare transcripts in a format consistent with the standards in subsection (M).
 - b. Production after Expiration of Certificate, Inactive Status or Voluntary Resignation. A reporter who is no longer certified, or who is in inactive status may not practice as a reporter or produce transcripts except for those proceedings that took place while their certificate was valid and active. The reporter shall use the same certificate number on the title or cover page of any transcript and letterhead that was used while the reporter was certified.
5. Oaths and Affirmations. A.R.S. § 32-4025 provides: “A certified reporter may administer oaths and affirmations.”

G. Renewal of Certificate. In addition to the requirements contained in ACJA § 7-201(G) the following requirements apply:

1. Expiration Date. A.R.S. § 32-4023(A) provides: “A certificate issued pursuant to this article is subject to renewal and expiration as prescribed by rules adopted pursuant to section 32-4005.” All certifications expire at midnight, on February 28th of each even numbered year.
2. Application. A.R.S. § 32-4023(B) provides: “The certificate holder is responsible for applying for a renewal certificate.” A certified reporter shall submit a completed renewal application, applicable fees pursuant to subsection (K) and documentation by the renewal application deadline established by the board to remain eligible to serve as a certified reporter in Arizona.
3. Continuing Education. A.R.S. § 32-4023(D) provides: “A certificate holder shall include with the application for renewal documentation satisfactory to the board that the certificate holder has successfully completed at least ten hours of approved continuing education each year.” The certificate holder shall comply with the provisions regarding continuing education contained in subsection (L).
4. Decision Regarding Renewal. In addition to the requirements contained in ACJA § 7201(E) and (G) the following requirements apply:
 - a. A.R.S. § 32-4023(B) provides: “On receipt of the renewal application and the renewal fee, the board shall issue the applicant a new certificate unless the board finds that the applicant does not meet the requirements for renewal or that section 324024 applies.”
 - b. The board may deny renewal of a certificate for any of the reasons specified in § 32-4024.

H. Complaints, Investigations, Disciplinary Action Proceedings and Certification and Disciplinary Hearings. These requirements are contained in ACJA § 7-201(H). ACJA § 7-

201(H)(2)(b) authorizes the division director to dismiss complaints that are not within the jurisdiction of the supreme court; complaints that are insufficient; or complaints that contain allegations that if true, would not constitute a violation of ACJA §§ 7-201 or -206 or applicable statutes or court rules. Notwithstanding these provisions the division director shall not have the authority to dismiss these complaints but shall forward these complaints to the board with a written recommendation for dismissal. The board shall enter the final decision regarding the disposition of the complaints.

I. Policies and Procedures for Board Members. These requirements are contained in ACJA § 7-201(I).

J. Code of Conduct. The following code of conduct is adopted by the supreme court to apply to all certified reporters pursuant to Title 32, Chapter 40, Arizona Revised Statutes. The purpose of this code of conduct is to establish minimum standards for performance by certified reporters and registered reporting firms.

1. Ethics.

- a. A certified reporter and registered reporting firm shall avoid impropriety and the appearance of impropriety in all professional activities, shall respect and comply with the laws and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system.
- b. A certified reporter and registered reporting firm shall exercise fairness and impartiality toward each participant in all aspects of reported proceedings and always offer to provide comparable service to all parties in a proceeding.
- c. A certified reporter and registered reporting firm shall have no personal or financial self-interest in the reporting of a proceeding and shall exercise caution to avoid any appearance of self-interest.
- d. A certified reporter and registered reporting firm shall be alert to situations that are conflicts of interest that may give the appearance of a conflict of interest or create an appearance of partiality.
- e. A certified reporter and registered reporting firm shall promptly make full disclosure to all parties or their representatives of any relationships which may give the appearance of a conflict of interest or partiality.
- f. A certified reporter shall refrain from knowingly making misleading, deceptive, untrue or fraudulent representations while in the practice of reporting. A certified reporter shall not engage in unethical or unprofessional conduct that is harmful or detrimental to the public in the practice of reporting. Proof of actual injury is not required.

- g. A certified reporter or registered reporting firm's certification as required by (F)(3) means the certified reporter or registered reporting firm affirms the following:
 - (1) The transcript is a full true and accurate record of the proceeding;
 - (2) The preparation, production and distribution of the transcript and copies of the transcript comply with the Arizona Revised Statutes and ACJA;
 - (3) All billings and invoicing to all the parties related in any manner to the reporting of the proceedings or cases and the production of the transcript and any products or services ancillary thereto comply with the Arizona Revised Statutes and the ACJA;
 - (4) All financial terms and other services have been offered on the same terms to all parties to the litigation;
 - (5) Each party was able to purchase the transcript and such ancillary services as requested by that party without regard to the ancillary services purchased by any party;
 - (6) No economic or other benefit was given by the certified reporter to any party or their attorney, representative, agent, or insurer or insured that was not provided to the other parties, attorneys or insureds in the same case.

- h. A certified reporter or registered reporting firm shall not provide reporting services in any action if they are:
 - (1) A party to the action;
 - (2) A relative, employee, or attorney of one of the parties;
 - (3) Someone with a financial interest in the action or its outcome; or,
 - (4) A relative, employee, or attorney of someone with a financial interest in the action or the outcome.
 - (5) Retained to provide court reporting services in the action by an individual or entity other than a party, a party's attorney or a registered reporting firm.

- i. A judicial officer may declare a deposition void if a certified reporter with an association to a matter, as described in this subsection, takes a deposition.

- j. Except as expressly set forth in this section, the provisions of section 7-206 may not be waived by disclosure, agreement, stipulation, or otherwise.

- k. A certified reporter, registered reporting firm, or their affiliates shall not provide to any individual or entity additional advocacy or litigation support services, including but not limited to claim investigation assistance, trial preparation assistance, and deposition summaries. Nothing in this subparagraph (k) should be interpreted to prevent a certified reporter, registered reporting firm or their affiliates from providing non advocacy or non litigation services (i.e., conference rooms, photocopying and teleconferencing) so long as such non advocacy or non litigation services are offered to all parties on the same terms.

1. A certified reporter or registered reporting firm with a continuing contractual relationship to provide reporting services in multiple cases with a party, attorney, or an entity with a financial interest in a case may provide reporting services in a case involving those individuals or entities only after notice of the contractual relationship is given to the lawyers in the case and any party not represented by a lawyer and if none object to the reporter or reporting firm taking the deposition. Notice of the continuing contractual relationship shall be in writing, include the duration of the relationship and whether the relationship is exclusive, and shall be given at the time the deposition is noticed, or at such time thereafter as the certified reporter or registered reporting firm is retained to provide reporting services. If written objection is received by the reporter or reporting firm within five business days of receipt of the notice, the reporter or reporting firm shall not perform the reporting services. If no written objection is received from the lawyer or party not represented by a lawyer within five business days of receipt of the notice, the reporter or firm contracted to perform the reporting services is deemed approved.
 - m. Subsections (J)(1)(h)(5) and (J)(1)(l) shall not apply to certified reporting services for the courts, agencies, or instrumentalities of the United States or of the State of Arizona.
2. Professionalism.
 - a. A certified reporter and registered reporting firm shall ensure the confidentiality and the security of information, verbal or written, entrusted to the certified reporter by the court or any of the parties in the proceeding is preserved. If the certified reporter or registered reporting firm uses a third party for any aspect of the preparation, production, distribution or storage of a transcript, the certified reporter or registered reporting firm, as appropriate, shall ensure that the third party maintains the confidentiality and security of the information. Unless authorized by court order or upon agreement of the parties, a certified reporter and registered reporting firm may release the transcript only to the witness, a party and the witness' or party's attorneys. A certified reporter and registered reporting firm shall not violate or knowingly aid, assist or facilitate a third party's violation of a court order regarding confidentiality. A registered reporting firm shall have in place procedures to ensure its awareness of court orders regarding confidentiality.
 - b. A certified reporter and registered reporting firm shall be truthful and accurate when advertising or representing the certified reporter's qualifications, skills, abilities, or the services provided.
 - c. A certified reporter and registered reporting firm shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.
 - d. A certified reporter shall keep abreast of current literature, technological advances and developments and shall fulfill ongoing training requirements to maintain professionalism.

- e. As part of the judicial department's commitment to the principle of access to justice for all and the integral role of certified reporters, certified reporters are encouraged to provide pro bono services, when requested through qualified legal assistance organizations providing free legal services to the indigent. Certified reporters providing pro bono services pursuant to this subsection shall disclose the pro bono services to all parties in the case.

3. Fees and Services.

- a. Except as provided in subsection (J)(2)(e), a certified reporter shall charge all parties or their attorneys in the same action the same price for an initial copy of a transcript. Additional copies purchased by the same ordering party may be charged at a reduced rate provided disclosure is made to all parties involved in the case and the same reduced rate for additional copies is provided to all parties involved in the case. Each party shall be treated as an individual party to the action and is required to purchase an initial copy at the same rate provided to all parties requesting a copy in the same action before they may obtain additional copies at a reduced rate. A certified reporter's and registered reporting firm's obligation to charge each party equally, includes but is not limited to complementary services, volume discounts, rebates, waivers or fee reductions to any party because of the individual or cumulative effect of performing reporting services in said action. A certified reporter may provide services on a pro bono basis as provided in this section.
- b. A certified reporter and a registered reporting firm shall provide in writing an itemized list of rates and charges to the witness, the parties, or the witness' and parties' attorney. The list shall be provided before the commencement of the deposition.
- c. A certified reporter shall, upon request at any time by a party or party's attorney or division staff, promptly provide in writing to the party, attorney, or division staff an itemized list of all rates and charges billed or applicable to any party or witness or their attorney(s). A certified reporter shall maintain an accurate account of services rendered and provide copies of invoices to any requesting party involved in the case or upon the request of the board or division staff.
- d. A certified reporter and registered reporting firm shall not enter into an agreement concerning fees that is unlawful or inconsistent with this section.
- e. A certified reporter and registered reporting firm must charge at least 60 percent more for the original transcript than is charged for any copy. The charge for the original transcript includes the per diem paid for the reporter's appearance.
- f. A certified reporter and registered reporting firm shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:

- (1) Establishing contingent fees as a basis of compensation;
- (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services;
- (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments;
- (4) Directly or indirectly giving, for the benefit of employment, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for:
 - (a) Nominal items that do not exceed \$25.00 per transaction and \$100.00 in the aggregate per recipient each year; and
 - (b) Pro bono services; and
- (5) Entering into any written or verbal financial relationship with counsel, parties of interest or their intermediaries that would require a certified reporter to violate any provision of this section.

g. Notwithstanding any other provision of this section, the certified reporter or registered firm may establish such individual payment terms for each party as the certified reporter or registered firm deems commercially reasonable.

4. Skills and Practice.

- a. A certified reporter shall take full and accurate stenographic or voice written notes of any proceeding and shall not wilfully alter the notes.
- b. A certified reporter shall accurately transcribe verbatim any stenographic or voice written notes taken at any proceeding and shall not wilfully alter the transcript.
- c. A certified reporter shall provide a transcript to a client or court in a timely manner. The certified reporter shall meet promised delivery dates and make timely delivery of transcripts when no date is specified. A certified reporter shall meet transcript preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A certified reporter shall provide immediate notification of delays.
- d. A certified reporter shall not go “*off the record*” during a deposition or court proceeding unless agreed to by all parties or their attorneys or ordered by the court.
- e. A certified reporter shall accept only those assignments for which the reporter’s level of competence will result in the preparation of an accurate transcript. The certified reporter shall decline an assignment when the reporter’s abilities are inadequate.
- f. A certified reporter shall prepare the record in accordance with applicable laws, rules or court order.

- g. A certified reporter shall preserve the stenographic or voice written notes in accordance with Arizona laws, federal laws and the Arizona Rules of Court.

5. Official Reporters.

- a. An official reporter may engage in freelance reporting duties only if the following criteria are met:
 - (1) The presiding superior court judge or designee has given express authorization; the reporter's official work is up to date and there are no transcripts the reporter is preparing in which a court has granted an extension of time; and
 - (2) The presiding superior court judge or designee has authorized the reporter to take annual leave during the time the freelance work is scheduled unless:
 - (a) The freelance work is scheduled during hours the court is not open for business; or
 - (b) The presiding superior court judge or designee has granted the reporter time off in compensation for overtime previously worked.
- b. A certified reporter shall never purport to speak or act for a judge regarding judicial matters.
- c. A certified reporter shall not express an opinion as to how a case should be decided or what verdict a jury will return.

6. Performance in Accordance with Law.

- a. A certified reporter shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.
- b. A certified reporter shall perform the duties of the profession using only the method of reporting the applicant used to obtain certification.

K. Fee Schedule. Pursuant to A.R.S. § 32-4008, the supreme court shall set and collect fees necessary to carry out the provisions of Title 32, Chapter 40, Arizona Revised Statutes pertaining to the certification of certified reporters.

1. Certification Fees.

- a. Initial Certification for Two Year Certification Period \$450.00
 - (1) For certification expiring more than one year after application date \$450.00
 - (2) For certification expiring less than one year after application date \$225.00

b. Fingerprint Processing	
(Rate as set by Arizona law and subject to change)	
2. Examination Fee for the Arizona Written Test	
a. Applicants for Initial Certification	\$50.00
b. Reexaminations	\$50.00
(For any applicant who did not pass the examination on the first attempt. The \$50.00 fee applies to each reexamination.)	
c. Reregistration for Examination	\$50.00
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)	
3. Renewal Certification Fees.	
a. Certification Renewal	\$400.00
b. Inactive Status	\$100.00
c. Late Renewal	\$50.00
d. Delinquent Continuing Education	\$100.00
4. Miscellaneous Fees	
a. Replacement of Certificate or Name Change	\$25.00
b. Public Record Request per Page Copy	\$.50
c. Certificate of Correctness of Copy of Record	\$18.00
d. Reinstatement Application	\$100.00
(Application for reinstatement to certification after suspension or revocation of certification.)	
5. Registered Reporting Firm Registration Fees	

- a. Initial Registration \$100.00
- b. Renewal Registration \$50.00

L. Continuing Education Policy.

1. Purpose.

- a. Reporting is integrally related to the prompt, effective and impartial operation of the judicial system. Certified reporters are required to demonstrate a basic level of competency to become certified and practice in Arizona. Ongoing, continuing education is one means to ensure a certified reporter maintains continuing competence in the field of reporting after certification is obtained. Continuing education also provides opportunities for certified reporters to keep abreast of changes in the reporting and legal professions and the Arizona judicial system.
- b. Pursuant to A.R.S. § 32-4005(B) and ACJA § 7-201(D), the board shall make recommendations to the supreme court regarding rules and procedures to implement the provisions of certification of reporters, including continuing education. This subsection is intended to provide direction to certified reporters to ensure compliance with the statutes and continuing education requirements, and to provide for equitable application and enforcement of the continuing education requirements.

2. Applicability.

- a. Pursuant to A.R.S. § 32-4023(D), ACJA § 7-201(G), and subsection (G)(3), all certified reporters shall complete at least ten hours of continuing education each calendar year. Pursuant to subsection (G)(3), all certified reporters who hold certification shall attend ten hours of approved continuing education each year between the period of January 1st and December 31st of the following years, for a total of no less than twenty hours of continuing education completed on or before December 31st of every odd numbered year. Hours of participation are not transferable to certification periods other than the one in which the participation occurred.
- b. All certified reporters shall comply with the continuing education policies in this subsection.

3. Responsibilities of Certified Reporters.

- a. It is the responsibility of each certified reporter to ensure compliance with the continuing education requirements, maintain documentation of completion of

- continuing education and provide the documentation upon the request of the board or division staff.
- b. Upon request of the board or division staff, a certified reporter shall provide any additional information required by the board or division staff when reviewing continuing education applications and documentation.
 - c. Continuing education not recognized for credit upon board review does not in any way relieve the certified reporter of the responsibility to complete the required hours of continuing education.
4. Authorized Continuing Education Activities.
- a. Continuing education is designed to provide an understanding of current developments, skills or procedures related to the practice of reporting. Continuing education shall address the areas of proficiency, competency and performance of stenographic or voice written reporting and impart knowledge and understanding of the profession of reporting, the Arizona judiciary and the legal process and increase the participant's understanding of the responsibilities of a certified reporter and the reporter's impact on the judicial process. The certified reporter shall complete the continuing education requirements in one or more of the following subject areas:
 - (1) English, including grammar and punctuation, vocabulary and etymology, proofreading and editing and regional and minority dialects, colloquialisms and commonly heard slang.
 - (2) Medical terminology presented by subject matter experts on terminology and concepts commonly encountered by certified reporters including Greek and Latin roots, homonyms and sound-alikes, abbreviations, pharmacy, anatomy and physiology and specialized medical fields, (for example, neurology, dentistry, radiology, forensic medicine).
 - (3) Legal terminology presented by subject matter experts on terminology and concepts commonly encountered by certified reporters including etymology, substantive law, procedural law, various subdivisions of law (for example, criminal, domestic, juvenile, civil) and how cases are processed and argued.
 - (4) Other technical subjects presented by subject matter experts with emphasis on terminology and concepts commonly encountered by certified reporters (for example, accident reconstruction, chemistry, construction, workman's compensation, products liability).
 - (5) Reporting technology including computer-aided transcription (CAT) skills: CAT equipment, hardware and software, DOS, ASCII and compressed transcript; computer skills including word processing, spreadsheets, database applications, windows and internet applications; equipment maintenance and computer integrated courtrooms.

- (6) Realtime reporting including writing for realtime, communicating with the hearing impaired, working with an interpreter, the Americans with Disabilities Act and realtime certification.
 - (7) Certification tests, including the Registered Merit Reporter, Registered Diplomat Reporter, Certified Realtime Reporter, Certified Manager of Reporting Services and Certificate of Merit and Realtime Verbatim Reporter. A certified reporter may receive continuing education credit for these activities in accordance with the standards established by the NCRA and the NVRA.
 - (8) Ethics for certified reporters and court employees, including cooperation with lawyers, judges, court staff, and fellow certified reporters, professional attire, courtesy and impartiality to all litigants, information verses legal advice and public relations.
 - (9) The Arizona court system including the state and federal constitution, branches of government, Arizona court jurisdiction and responsibilities, and Arizona tribal court system; resource materials including the Arizona Revised Statutes, Arizona Rules of Court, case law and administrative orders and rules; and current issues in the Arizona court system.
 - (10) Role and responsibilities of certified reporters, including the statutes and ACJA §§ 7201 and -206 for certified reporters.
 - (11) Writing and editing skills including transcript style and setups, appropriate editing, scoping, scanning and printing, writing for a note reader, scopist or editor; indexing of witnesses and exhibits and transcript formats.
 - (12) Research skills including utilizing reference materials and libraries and research techniques.
 - (13) Management issues including public relations and customer service; accounting, ergonomics, time management and office management.
- b. Conferences. A certified reporter may receive continuing education credit for attendance at a conference relevant to the profession of reporting. A certified reporter may receive 100 percent of the continuing education credits for attendance at the conference, if the conference is directly related to the reporting profession. Introductory remarks, breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.
- c. University, College and Other Educational Institution Courses. A certified reporter may receive continuing education credit for a course provided by a university, college or other institutionally accredited educational program if the reporter successfully completes the course with a grade of "C" or better or a "pass" on a pass/fail system. A certified reporter may receive continuing education credit if the course is relevant to the reporting profession and may receive credit up to two times the number of credit hours awarded by the educational institution. The maximum total hours of continuing education credits earned from educational course work shall not exceed 50 percent of the total number of continuing education hours required for renewal.

- d. **Authoring or Coauthoring Articles.** A certified reporter may receive continuing education credit for authoring or coauthoring an article directly related to reporting, if the article is published in a state or nationally recognized professional journal of court reporting or law and if the article is a minimum of 1,000 words in length. A certified reporter may receive a maximum of three hours of continuing education credit for authoring an article or articles during a renewal period. A certified reporter shall not receive continuing education credit for the same article published in more than one publication or republished in the same publication in later editions.
 - e. **Self-Study.** A certified reporter may receive continuing education credit for self-study activities, including taking correspondence courses, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. A certified reporter shall not receive continuing education credit for simply reading books, seminar or other printed materials. The maximum hours of continuing education credits earned in a self-study format shall not exceed 50 percent of the total number of continuing education hours required during the certification period. The remaining hours must be obtained through live training, meaning training or education provided by one or more faculty or facilitators to an individual or a group using real-time interaction. Additionally, if the self-study activities are NCRA courses, a court reporter may receive up to 100 percent of the total number of continuing education hours required during the certification period.
 - f. **Serving as Faculty.** A certified reporter may receive continuing education credit for serving as an instructor, speaker, panel member or faculty of a continuing education seminar directly related to the profession of reporting. A certified reporter may receive continuing education credit for the actual presentation time and up to two hours of preparation time for each hour of presentation. The maximum hours of continuing education credits earned as faculty credit shall not exceed 50 percent of the total number of continuing education hours required for renewal and a certified reporter shall not receive duplicate credit for repeating a presentation during the certificate period.
5. **Minimum Time.** Each continuing education activity shall consist of at least 30 minutes of “actual clock time” spent by a certified reporter in actual attendance at and completion of an approved continuing education activity. “Actual clock time” includes the total number of hours attended, minus the time spent for introductory remarks, breaks, meals and business meetings. After completion of the first 30 minutes of a continuing education activity, credit shall be recognized in fifteen minute increments.
 6. **Maximum Credit.** Unless the board otherwise determines a continuing education activity is directly related to the reporting profession, a certified reporter shall not receive more than 50 percent of the credit requirement for the certificate period through one activity.
 7. **Non-Qualifying Activities.**

- a. The following activities, regardless of whether or not the activity is approved for COJET credit, shall not qualify for continuing education credit for certified reporters:
 - (1) Programs completed for qualification for initial certification;
 - (2) Programs with a primary focus on teaching nonverbal skills that are not directly related to reporting;
 - (3) Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions or program/employee orientation;
 - (4) Serving on committees or councils or as an officer in a professional organization;
 - (5) Activities completed as required by the board as part of a disciplinary action; and
 - (6) Mentoring activities by a certified reporter.
 - b. Repeat of an Activity. Continuing education activities repeated during a certificate period do not qualify for credited duplicate hours.
 - c. If a certified reporter attends part, but not all of a continuing education activity, the certified reporter is not eligible to claim partial credit.
8. Documentation of Attendance or Completion. When attending or completing a continuing education activity, each certified reporter shall obtain documentation of attendance or completion from the sponsoring entity. At a minimum, the proposal shall include the:
- 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. Affidavit of Compliance. A certified reporter shall submit an affidavit of continuing education compliance when applying for renewal of certification. The certified reporter shall submit the affidavit in the format provided by division staff. The board and division staff may request documentation or additional information from a certified reporter applying for renewal to verify compliance with the continuing education requirements. If the certified reporter fails to provide the requested documentation or

additional information, the board may deem the application for renewal incomplete and deny renewal of certification.

- b. **Proration of Continuing Education Requirement.** A certified reporter whose certificate expires less than six months from the effective date of certification shall complete no less than five hours of continuing education credit during the balance of the certification period. In subsequent certification periods, the certified reporter shall complete the annual ten hour continuing education requirement. Proration of the continuing education requirement does not apply to certified reporters who previously held certification and allowed their certification to lapse. A certified reporter who attends approved continuing education prior to the date of their initial certification, but within the certification renewal period may claim these continuing education hours as fulfilling the continuing education requirements for their first renewal of certification provided the continuing education meets all provisions of subsection L.
- c. **Extension of Continuing Education Requirements.** A certified reporter seeking renewal of certification who has not fully complied with the continuing education requirement may request an extension of the requirement under the following conditions:
 - (1) The certified reporter submits a notarized written statement to the board, explaining the facts regarding non-compliance and requesting an extension of the requirements no later than the November 15th preceding the February 28th expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the certified reporter to complete the continuing education requirement.
 - (2) The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the certified reporter has been unable to devote sufficient hours to fulfill the requirements during the certificate period because of:
 - (a) full-time service in the armed forces of the United States during a substantial part of the certificate period;
 - (b) an incapacitating illness documented by a statement from a currently licensed physician;
 - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed physician; or
 - (d) any other special circumstances the board deems appropriate.
 - (3) A certified reporter whose certificate has been suspended or revoked by the board is not eligible to request an extension of the continuing education requirement.
- d. **Random Audits of Compliance.** During each renewal review period, the board shall request division staff to randomly select a specified number of certified reporters to demonstrate continuing education compliance through submission of proof of continuing education participation. Refusal or failure to respond to a board or division staff request for continuing education compliance documentation may result in denial

of renewal of certification or disciplinary action pursuant to ACJA § 7201(H) and this section.

- e. A certified reporter who fails to meet the continuing education requirement, falsifies continuing education documents, completes any portion of the continuing education requirement after December 31st or willfully misrepresents continuing education activities and attendance at continuing education activities is subject to any or all of the following actions by the board:
 - (1) Assessment of the delinquent continuing education fee;
 - (2) Denial of renewal of certification; and
 - (3) Disciplinary action pursuant to ACJA § 7-201(H) and this section.

10. Board Decision Regarding Continuing Education Credits.

- a. Upon a review of continuing education documentation and any applicable additional information requested, the board may:
 - (1) Recognize compliance by the certified reporter with the continuing education requirement;
 - (2) Require additional information from the certified reporter seeking renewal before making a decision;
 - (3) Recognize partial compliance with the requirement and order remedial measures; and
 - (4) Enter a finding of non-compliance.
- b. Division staff shall notify the certified reporter, in writing, within ten days of the board's decision. A certified reporter may appeal the decision by submitting a written request for review by the board with division staff within fifteen days of receipt of notification of the board's decision. The certified reporter may request to appear before the board at the next available regularly scheduled board meeting.
- c. The certification of a reporter who timely appeals a decision by the board regarding continuing education shall continue in force until a final decision is made by the board.
- d. The board shall make the decision on the appeal in writing. The decision is final and binding.

M. Transcript Format Standards. Transcripts filed by certified reporters in courts in the state of Arizona shall conform to the following standards:

- 1. **Applicability.** Each transcript prepared by a certified reporter shall consist of the following pages:

- a. Title page;
 - b. Table of contents and index page;
 - c. Appearance page; and
 - d. Certificate page.
2. Title Page.
- a. Court Proceedings. The title page shall contain:
 - (1) Case caption;
 - (2) The type of proceedings: grand jury, jury trial, type of motion, etc.;
 - (3) The date of proceedings;
 - (4) The city and state where the proceedings were held;
 - (5) The name of the judicial officer;
 - (6) The name of the certified reporter, title (“certified reporter” or “CR”) and certificate number;
 - (7) A clear indication that a transcript is a partial transcript or excerpt; and
 - (8) Other applicable information.
 - b. Depositions and Other Non-court Proceedings. The title page shall contain:
 - (1) Case caption;
 - (2) The type of proceedings: deposition, sworn statement, unsworn statement, etc.;
 - (3) The date of the proceedings;
 - (4) The city and state where the proceedings were held;
 - (5) The name of the certified reporter, title (“certified reporter” or “CR”) and certificate number; and
 - (6) Other applicable information: excerpts, volume number.
 - c. Index Page.
 - (1) Court Proceedings. The index page, if applicable shall:
 - (a) Begin on a separate page;
 - (b) Show each witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of direct, cross, and redirect examination, etc.;
 - (d) Show other important events and the page number they occur: jury selection, opening statements, closing arguments, verdict, etc.; and
 - (e) Identify when exhibits are marked or introduced, admitted or excluded.

- (2) Depositions and Other Non-court Proceedings. The index page shall:
 - (a) Begin on a separate page;
 - (b) Show the witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of examination by each attorney or party;
 - (d) Show other important events and the page number they occur; and
 - (e) Identify when exhibits are marked or identified.

d. Appearance Page.

- (1) Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Indicate the name of the attorneys and which party they represent. Attorney addresses may be included;
 - (c) Indicate parties appearing in propria persona; and (d) Indicate the names of the grand jurors present.
- (2) Depositions and Other Non-Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Identify the location where proceedings took place;
 - (c) Indicate the time the proceedings began;
 - (d) Indicate the name and address of the attorneys and which party they represent;
 - (e) Indicate parties appearing in propria persona; and
 - (f) Indicate all other individuals present in the room during the proceedings: videographers, interpreters, etc.

e. Certificate Page.

- (1) Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding;
 - (c) Be signed and dated by the certified reporter; and
 - (d) Include the reporter's certificate number.
- (2) Depositions and Other Non-Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding and the preparation, production and distribution of the transcript and copies comply with law and code as required by (F)(3);
 - (c) Contain language indicating the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript pursuant to A.R.S. § 41-324(B);
 - (d) Be signed and dated by the certified reporter and the registered reporting firm, if any;
 - (e) Include the reporter's certificate number; and

- (f) Indicate whether the witness has requested signature, not requested signature or waived signature.

f. Transcript Formatting. All transcripts shall:

- (1) Contain 25 numbered lines of text on each page of the body of the transcript text with the exception of the last page. One blank line may be left before transitional events or headings, for example, a witness set-up paragraph or "examination," to ensure readability;
- (2) Contain page numbers at the upper right-hand corner. The page number does not count as a line;
- (3) Unless otherwise requested, begin at page one for each day of proceedings, even in multiple-day proceedings;
- (4) Contain total combined margins of text not to exceed 2 and 1/8 inches. The lefthand margin is measured from the left edge of the paper to the first character of text. The right-hand margin is measured from the right edge of the paper to the last character of text;
- (5) Use letter character size of no fewer than nine or ten characters to the inch;
- (6) Be double spaced in the body of the transcript;
- (7) Begin Question and Answer ("Q and A") designations no more than five spaces from the left-hand margin;
- (8) Begin text following Q and A designations at no more than ten spaces from the left-hand margin, with carryover Q and A lines beginning at the left-hand margin;
- (9) Begin speaker identification for colloquy at no more than fifteen spaces from the left-hand margin, with carryover colloquy beginning at the left-hand margin;
- (10) Begin quoted material no more than fifteen spaces from the left-hand margin, with carryover lines beginning no more than ten spaces from the left-hand margin;
- (11) Begin parentheticals and exhibit markings no more than fifteen spaces from the left-hand margin, with carryover lines beginning at the left-hand margin; and
- (12) Be bound in a professional manner.

g. Rough Drafts. An uncertified rough draft transcript shall not include a title page, appearance page, certificate page, any mention of the swearing in of a witness, footer with firm name or reporter name or CR number, index page, page numbers, line numbers, borders around the text on each page, or time stamping.

- (1) An uncertified rough draft transcript shall include a header or footer on each page stating "UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT." The phrase "UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT" shall be included in the body of the text occasionally.
- (2) In lieu of a title page, each rough draft shall begin with a disclaimer stating the uncertified rough draft transcript cannot be quoted in any pleading or for any other purpose and may not be filed with any court. The disclaimer shall contain a brief identification of the contents, for example, John Smith deposition, 6/17/06. The certified reporter should keep a copy of the disclaimer.

N. Registered Reporting Firm. A reporting firm that employs or contracts with a certified reporter to provide services regulated pursuant to A.R.S. § 32-4001 et. seq. or this section must be registered with the division in accordance with the provisions of this section.

1. A reporting firm shall register with the division by providing to the division on a form approved by the division the following information:
 - a. Full legal name;
 - b. Address;
 - c. Telephone number;
 - d. Email address;
 - e. Contact individual, including name address, telephone number and email address.
2. Before the registration is effective:
 - a. The reporting firm shall certify, on a form acceptable to the division director, that the firm agrees to comply with the provisions of ACJA § 7-201 and this section in the same manner in which it would need to comply if it were a certified reporter;
 - b. The reporting firm shall agree to submit to the jurisdiction of the Supreme Court to the extent it has performed activities regulated by this section;
 - c. The reporting firm shall pay the fee set forth in paragraph K.
3. A registered reporting firm registration expires on January 31st following the fifth anniversary of its issuance and may be renewed by filing a renewal application on a form acceptable to the division director that provides the information and certifications set forth in subparagraphs 1 and 2 of this paragraph.
4. A registered reporting firm that contracts with or employs a certified reporter to perform services regulated by this section shall ensure that in the performance of those duties the certified reporter and registered reporting firm adhere to the provisions of this section.
5. A registered reporting firm that fails to comply with its obligations as set forth in this section may have its registration revoked, suspended or the registered reporting firm may receive such other discipline as a certified reporter may receive upon finding by the Board that the registered reporting firm violated the provisions of this section. Any disciplinary action imposed upon a registered reporting firm is also imposed upon the registered reporting firm's affiliates. If the registered reporting firm's registration is revoked the firm

may not reapply for registration for twelve months and before being reregistered the Board must determine that the conduct resulting in the revocation is unlikely to reoccur.

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 3: Superior Court

Chapter 4: Administration

Section 3-402: Superior Court Records Retention and Disposition Schedule

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D. Retention and Disposition Schedule. The clerk of superior court or the records manager shall retain and dispose of superior court records according to the following schedule:

...

Records Series #	Records Series Title	Retention Period with Court	LAPR Retention	Remarks
MISCELLANEOUS RECORDS HELD BY THE CLERK OF COURT, THE COURT, OR COURT ADMINISTRATION				
38.	THE VERBATIM RECORD, INCLUDING COURT REPORTER NOTES AND ELECTRONIC RECORDINGS OF A COURT PROCEEDING, HEARING, OR TRIAL			
	a. Criminal non-capital cases, including grand jury, writs of habeas corpus, trial, sentencing, and all other proceedings	20 years from the date of sentencing or other final order of the court, unless a transcript is prepared	N/A	Court reporter notes must be retained for 20 years from the date of sentencing or other order of the court, unless a transcript is prepared.
	b. Criminal capital cases, including grand jury, writs of habeas corpus, trial, sentencing and all other proceedings	50 years from the date of sentencing	N/A	
	c. Non-criminal	5 years from the date of the proceeding	N/A	
	d. Juvenile	10 years from the date of the proceeding	N/A	

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ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 1: Judicial Branch Administration

Chapter 6: Records

Section 1-603: Transcript Procedures

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B. Specifications.

1. Paper. Transcript paper shall be of good quality, white in color, eight and one-half by eleven inches in size and at least twenty pounds in weight for both originals and copies.
2. Covers. Each transcript cover shall be made of good quality, heavy weight transparent plastic or similar material.
3. Fastening. Transcripts shall be bound in a professional manner.
4. Ink color. Black ink shall be used for originals and copies of transcripts.
5. Line numbering. Each page of a transcript shall contain twenty-five numbered lines of text; however, one blank line of text may be left before transitional events or hearings to ensure readability. If applicable, the last page of the transcript may contain fewer than twenty-five lines of text. Page numbers, headers and footers shall not be part of the twenty-five lines of text.
6. Page numbering. Unless otherwise requested, begin at page one for each day of proceedings. The page number shall appear in the upper right-hand corner. The page number does not count as a line. On a single-day transcript, the pagination of the transcript, whether consisting of one or more volumes, shall be numbered in a single chronological sequence throughout all volumes. On a multi-day transcript, each day shall be a separate transcript and is not consecutively numbered.
 - a. Title pages. Title pages shall be counted but not numbered.
 - b. Certification page. The certification page shall be the last page of every transcript.
7. Type size. The letter character size shall be at least nine characters to the inch.
8. Margins. Combined margins shall not exceed two and one-eighths of an inch. The lefthand margin shall be measured from the left edge of the paper to the first character of text. The right-hand margin shall be measured from the right edge of the paper to the last character of text.

9. Indentations.

- a. Question and Answer. Begin question and answer (Q and A) designations no more than five spaces from the left-hand margin. Begin text following Q and A designations no more than ten spaces from the left-hand margin, with carryover lines beginning at the left-hand margin.
- b. Speaker identification. Begin speaker identification for colloquy no more than fifteen spaces from the left-hand margin, with carryover lines beginning at the left-hand margin.
- c. Quoted material. Begin quoted material no more than fifteen spaces from the left-hand margin, with carryover lines beginning no more than ten spaces from the left-hand margin.
- d. Parentheticals and exhibit markings. Begin parentheticals and exhibit markings no more than fifteen spaces from the left-hand margin, with carryover lines beginning at the left-hand margin.

10. Line spacing. Text in the body of the transcript shall be double spaced.

11. Copies. Transcript copies shall be reproduced by any method of reproduction that produces black text on white paper. There shall not be markings on the original or copy of the transcript that would hinder its clear reproduction.

12. Electronic version. Copies of transcripts shall be provided to an ordering party in PDF or TIFF format unless the ordering party determines an originally printed, executed and bound transcript is necessary for further court proceedings.

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ARIZONA REVISED STATUTES

A.R.S. § 12-224. Salary; fees for transcripts; free transcripts; office supplies

- A. The salary of the court reporter shall be fixed by the presiding judge of the court, with the approval of the board of supervisors of the county, and shall be paid by the county.
- B. The reporter shall receive from a party ordering an appeal transcript, two dollars fifty cents per page for the original, and thirty cents per page for each copy if ordered at the same time and by the same party.
- C. The reporter, when requested in advance, shall furnish free of charge to the county attorney or the attorney general a copy of the transcript of testimony when a transcript is made on an appeal in a criminal case, and to the attorney general when the state is a party.
- D. The reporter, when requested, shall furnish at county expense to the county attorney or the attorney general a copy of the transcript of testimony of any proceeding held in the superior court when the state or an instrumentality thereof is ordered to provide such transcripts by a federal court in a habeas corpus proceeding in the federal courts or when ordered by the Arizona supreme court to provide such transcripts in a habeas corpus proceeding in state court.
- E. The necessary supplies for conduct of the office of reporter shall be furnished by the county.

A.R.S. § 12-225. Appointment of deputies; compensation

- A. The court reporter may employ deputies who shall be compensated by him.
- B. When the reporter is prevented from performing his duties because of absence on public business, or when more than one judge is holding court at the same time in the county or any division thereof, the reporter may appoint a deputy to perform the services of reporter during the period and at the compensation the judge provides by order. Such compensation shall be a county charge.

A.R.S. § 21-411. Appointment of reporter; transcript

- A. The presiding judge of the superior court shall appoint a regularly appointed court reporter to record the proceedings before the grand jury, except the deliberations of the grand jury. The reporter's notes containing the proceedings from which an indictment is returned shall be transcribed and filed with the clerk of the superior court not later than twenty days following the return of the indictment, unless the court otherwise orders. Such transcript shall be made available to the prosecuting officer and the defendant. The transcript or a portion of the transcript may be denied to a defendant by the court upon a showing of extraordinary circumstances by a prosecuting officer. The reporter's notes which are not transcribed as

provided in this section shall be filed with the clerk of the superior court and impounded and shall be transcribed only when ordered by the presiding judge of the superior court.

- B. The reporter and typists who transcribe the reporter's notes of grand jury proceedings shall be sworn by the foreman or acting foreman not to disclose any testimony or the name of any witness except to the county attorney or other prosecuting officer or when testifying in court.

A.R.S. § 22-261. Judgments which may be appealed [Justice Court]

- A. Any party to a final judgment of a justice court may appeal to the superior court.
- B. The party aggrieved by a judgment in any action in which the validity of a tax, impost, assessment, toll or a statute of the state is involved may appeal to the superior court without regard to the amount in controversy.
- C. An appeal shall be on the record of the proceedings if such record includes a transcript of the proceedings. De novo trials shall be granted only when the transcript of the proceedings in the superior court's evaluation is insufficient or in such a condition that the court cannot properly consider the appeal. A trial de novo shall not be granted when a party had the opportunity to request that a transcript of the lower court proceedings be made and failed to do so. At the beginning of each proceeding the judge shall advise the parties that their right to appeal is dependent on their requesting that a record be made of the justice court proceedings. Any party to an action may request that the proceedings be recorded for appeal purposes. The cost of recording trial proceedings is the responsibility of the court. The cost of preparing a transcript, if appealed, is the responsibility of the party appealing the case. The supreme court shall establish by rule the methods of recording trial proceedings for record appeals to the superior court, including electronic recording devices or manual transcription.

A.R.S. § 32-4002. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of certified reporters.
2. "Certification" means a standard certificate that is issued by the board to a person who meets the requirements of sections 32-4021 and 32-4022 and does not include a temporary certificate.
3. "Certified reporter" means a person who is certified by the board and who records and transcribes a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand, machine writing or voice writing.
4. "Certify" means board authorization to engage in activities regulated by the board.

5. "Report" means to stenographically or by voice writing record and transcribe sworn proceedings.

6. "Voice writing" means the making of a verbatim record of the spoken word by means of repeating the words of the speaker into a device that is capable of digital translation into text.

A.R.S. § 32-4003. Reporter certification; violation

A. A person shall not report proceedings in any court in this state and shall not report depositions in this state for use in any court in this state unless the person is certified pursuant to this chapter.

B. A certified reporter shall sign and certify each transcript that the certified reporter prepares before the transcript may be used in court, except for transcripts that the reporter prepares for proceedings that occurred before July 1, 2000.

C. A certified reporter shall include the title "certified reporter" or the abbreviation "CR" and the reporter's certificate number on the title or cover page of any transcript, on any business card, advertisement or letterhead and on the certificate of any transcript.

D. It is unlawful for any person who is not certified pursuant to this chapter to represent oneself as a certified reporter.

A.R.S. § 32-4004. Board of certified reporters

A. The board of certified reporters is established consisting of the following members:

1. The chief justice of the supreme court or the chief justice's designee.

2. One judge of the court of appeals who is appointed by the chief justice of the supreme court.

3. One superior court judge who is appointed by the chief justice of the supreme court.

4. Two certified reporters who are residents of this state, who have been official court reporters for at least five years and who are appointed by the chief justice of the supreme court.

5. Two certified reporters who are residents of this state, who have been freelance reporters for at least five years and who are appointed by the chief justice of the supreme court.

6. One attorney who is a resident of this state, who has been licensed to practice law in this state for at least five years and who is appointed by the chief justice of the supreme court.

7. One public member who is appointed by the chief justice of the supreme court.
- B. Members who are appointed pursuant to subsection A, paragraphs 2 through 7 serve five year terms. The chief justice shall fill a vacancy for any unexpired portion of a term in the same manner as the original appointment.
- C. A majority of the members shall elect a chairperson.
- D. Public members of the board are not eligible to receive compensation but are eligible to receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.
- E. The board shall assure that a record of its meetings and all official actions, a register of all applicants for certification and a roster of all certified reporters are maintained. The board shall designate the location where it maintains the register and roster.

A.R.S. § 32-4005 Program administration; duties

- A. The supreme court shall:
 1. Administer the reporter certification program.
 2. Adopt rules.
 3. Establish and collect fees, costs and penalties that are necessary for the implementation and enforcement of the program.
- B. The board shall:
 1. Make recommendations to the supreme court regarding rules, policies and procedures to implement and enforce this chapter, including the following:
 - (a) Applicant testing.
 - (b) Fees.
 - (c) A code of conduct.
 - (d) Continuing education.
 - (e) Any other matter pertaining to certified reporters.

2. Determine through testing and other means an applicant's ability to make a verbatim record of proceedings that may be used in any court by means of written symbols or abbreviations in shorthand, machine writing or voice writing.
3. Issue certificates to qualified applicants.
4. Investigate and take disciplinary action pursuant to section 32-4006.
5. Require each applicant to submit a full set of fingerprints to the supreme court for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

A.R.S. § 32-4006 Enforcement and disciplinary procedures

- A. On its own motion or on receipt of a complaint, the board shall investigate, prosecute and adjudicate alleged violations of this chapter, as appropriate, and may conduct any investigation that would aid in the enforcement of this chapter.
- B. For the purposes of investigations or hearings under this chapter, the board may administer oaths and affirmations, subpoena witnesses, take evidence and require the production of documents, records or information, either kept in original form or electronically stored or recorded, or other items that are relevant or material to the inquiry.
- C. If a person refuses to obey a subpoena issued pursuant to this section, the board may request the superior court to issue an order that requires the appearance by a person or the production of documents or other items, or both. The court may treat the failure to obey the order as contempt of court and may punish the contempt.
- D. The board shall impose cease and desist orders, issue letters of concern or warnings or order revocation or suspension of certification for violations of this article and assess costs and penalties associated with these activities. These costs and penalties shall be deposited in the certified reporters fund established by section 32-4007.

A.R.S. § 32-4021 Standard certification qualifications; application

- A. An applicant for standard certification as a certified reporter shall apply on approved forms and, at a minimum, shall:
 1. Be at least eighteen years of age.
 2. Be a citizen or legal resident of the United States.

3. Satisfy the requirements of section 32-4022.
4. Be of good moral character.
5. Possess a high school diploma or general equivalency diploma or a similar document or certificate.
6. Pursuant to rules adopted by the supreme court, demonstrate reasonable proficiency in making verbatim records of trial or judicial or related proceedings.
7. Comply with the laws and rules and orders adopted by the supreme court governing certified reporters in this state.
8. Pay the fees established pursuant to section 32-4008.
9. Submit a full set of fingerprints with the fee prescribed in section 41-1750 to the supreme court for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544.

B. If the board is satisfied that an applicant meets the requirements of this section and section 32-4022, the supreme court shall issue a certificate to the applicant. The board may refuse to issue a certificate if section 32-4024 applies.

A.R.S. § 32-4022. Examination; requirements; exemption

- A. A person shall not be admitted to an examination without presenting satisfactory evidence to the board that before the date on which the application for an examination was filed the person has done at least one of the following:
1. Obtained one year of experience in making verbatim records of meetings, conferences, hearings or judicial or related proceedings by means of written symbols or abbreviations in shorthand, machine writing or voice writing and in transcribing these records.
 2. Obtained a verified certificate of the satisfactory completion of a prescribed course of study from a court reporting school or a certificate from a school that evidences the equivalent proficiency and the ability to make a verbatim record of material that is dictated pursuant to rules adopted by the supreme court.
 3. Obtained a national court reporters association's registered professional reporter or registered merit reporter certificate.
 4. Obtained a valid certificate to practice court reporting that is issued by a state other than this state if the other state's requirements and certifying examination are substantially similar to or more stringent than those in this state.

5. Demonstrated reasonable proficiency in making verbatim records of trial or judicial or other related proceedings by passing an approved examination for certification pursuant to rules adopted by the supreme court.
- B. The examination for certification consists of the following two parts:
1. A national court reporters association's registered professional reporter examination, a national verbatim reporters association's certified verbatim reporters association examination or an alternative demonstration of proficiency approved by the supreme court.
 2. A written knowledge test of rules of the supreme court of Arizona and statutes of this state relating to court reporters.
- C. The board shall review the content and subject matter of the examination and shall make changes as deemed necessary.
- D. The supreme court shall specify a date and place for the examinations.
- E. Pursuant to rules adopted by the supreme court, an applicant who presents proof of having passed an examination approved by the supreme court including a national court reporters association's registered professional reporter examination, a national court reporters association's registered merit reporter examination, a national verbatim reporters association's certified verbatim reporters association examination or an alternative demonstration of proficiency approved by the supreme court and the test prescribed by subsection B, paragraph 2 may apply for certification without taking and passing the examination prescribed by subsection B, paragraph 1.
- F. An applicant who fails to pass the examination prescribed by subsection B, paragraph 2 may apply for reexamination at any time.
- G. An applicant shall be disqualified from taking any future examination if the board determines that the applicant engaged in fraud, dishonesty or corruption while taking the examination.

A.R.S. § 32-4023 Certificate renewal

- A. Except as provided in section 32-4301, a certificate issued pursuant to this article is subject to renewal and expiration as prescribed by rules adopted pursuant to section 32-4005...
- D. A certificate holder shall include with the application for renewal documentation satisfactory to the board that the certificate holder has successfully completed at least ten hours of approved continuing education each year.

A.R.S. § 32-4024 Certificate denial

A. The board may refuse to issue a certificate or to renew a certificate if the board finds that any of the following applies:

1. The applicant does not meet to the board's satisfaction the requirements under sections 32-4021 and 32-4022.
2. The applicant has not been fingerprinted and the supreme court has not received and reviewed the criminal records check analysis.
3. The applicant has not submitted the applicable documents and fees.
4. The applicant committed fraud, dishonesty, corruption or material misrepresentation in applying for a certificate or on a certificate examination in this state or another state.
5. The applicant has a record of conviction by final judgment of a felony offense or any other offense involving moral turpitude.
6. The applicant is currently on probation, parole or community supervision for a felony offense or is named in an outstanding warrant.
7. The court has ordered treatment for the applicant pursuant to title 36 or has found the applicant to be incapacitated pursuant to title 14.
8. The applicant is subject to revocation or suspension of a certificate pursuant to section 32-4041 or has had any occupational or professional license denied, revoked or suspended.
9. The applicant has been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.

B. Pursuant to rules adopted by the supreme court, the board may refuse to issue or renew a certificate for cause.

A.R.S. § 32-4025. Administration of oaths

A certified reporter may administer oaths and affirmations.

Arizona Constitution, Article 2 § 7. Oaths and affirmations

Section 7. The mode of administering an oath, or affirmation, shall be such as shall be most consistent with and binding upon the conscience of the person to whom such oath, or affirmation, may be administered.

RULES OF CIVIL PROCEDURE FOR THE SUPERIOR COURTS OF ARIZONA

Rule 30. Depositions by Oral Examination

(a) When a Deposition May Be Taken.

- (1) *Depositions Permitted.* A party may depose: (A) any party; (B) any person disclosed as an expert witness under Rule 26.1(d)(1); (C) any treating physician in a medical malpractice action; and (D) any document custodian in order to secure production of documents and establish evidentiary foundation. Unless all parties agree or the court orders otherwise for good cause, a party may not depose any other person or depose a person who has already been deposed in the action.
- (2) *Depositions by Plaintiff Earlier Than 30 Days After Serving the Summons and Complaint.* A plaintiff must obtain leave of court to take a deposition earlier than 30 days after serving the summons and complaint on any defendant unless: (A) a defendant has served a deposition notice or otherwise sought discovery under these rules; or (B) the plaintiff certifies in the deposition notice, with supporting facts, that the deponent is expected to leave Arizona and will be unavailable for deposition after expiration of the 30-day period. If a party shows that it was unable, despite diligent efforts, to obtain counsel to represent it at a deposition taken under this Rule 30(a)(2), the deposition may not be used against that party.
- (3) *Incarcerated Deponents.* Subject to Rule 30(a)(1), a party may depose an incarcerated person only by agreement of the person's custodian or by leave of court on such terms as the court orders.
- (4) *Compelling Attendance of Deponent.* A party may compel a nonparty deponent's attendance by serving a subpoena under Rule 45. A party noticing the deposition of a party--or an officer, director, or managing agent of a party--need not serve a subpoena under Rule 45.

(b) Notice of a Deposition; Method of Recording; Deposition by Remote Means; Deposition of an Entity; Other Formal Requirements.

- (1) *Notice Generally.* Unless all parties agree or the court orders otherwise, a party who wants to depose a person by oral questions must serve written notice to every other party at least 10 days before the date of the deposition. The notice must state the date, time, and place of the deposition and, if known, the deponent's name and address. If the deponent's name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.
- (2) *Producing Materials.* If a subpoena for documents, electronically stored information, or tangible things has been or will be served on the deponent, the materials designated for production in the subpoena must be listed in the deposition notice or in an attachment to

the notice. A deposition notice to a deponent who is a party to the action may be accompanied by a separate request under Rule 34 to produce documents, electronically stored information, or tangible things at the deposition. The procedures under Rule 34 apply to any such request.

(3) *Method of Recording.*

- (A) Permitted Methods. Unless all parties agree or the court orders otherwise, testimony must be recorded by a certified reporter and may also be recorded by audio or audiovisual means.
- (B) Method Stated in the Notice. The party who notices the deposition must state in the notice the method for recording the testimony. Unless the parties agree or the court orders otherwise, the noticing party bears the recording costs.
- (C) Additional Method. With at least two days prior written notice to the deponent and other parties, any other party may designate another method for recording the testimony in addition to that specified in the original notice. Unless the parties agree or the court orders otherwise, that party bears the expense of the additional recording.
- (D) Notice of Recording by Audiovisual Means. Any notice of recording the testimony by audiovisual means must identify the placement of the camera(s).
- (E) Transcription. Any party may request that the testimony be transcribed. If the testimony is transcribed, the party who originally noticed the deposition is responsible for the cost of the original transcript. Any other party may, at its expense, arrange to receive a certified copy of the transcript.

(4) *By Remote Means.* The parties may agree or the court may order that a deposition be taken by telephone or other remote means. For the purposes of this rule and Rules 28(a), 37(a)(2), 45(b)(3)(B), and 45(e), the deposition takes place where the deponent answers the questions. If the deponent is not in the officer's physical presence, the officer may nonetheless place the deponent under oath or affirmation with the same force and effect as if the deponent was in the officer's physical presence.

(5) *Officer's Duties.*

- (A) Before Deposition. Unless the parties agree otherwise under Rule 29, a deposition must be conducted before an officer appointed or designated under Rule 28. The officer must begin the deposition with a statement or notation on the record that includes:
 - (i) the officer's name, certification number, if any, and business address;
 - (ii) the date, time, and place of the deposition;
 - (iii) the deponent's name;
 - (iv) the officer's administration of the oath or affirmation to the deponent; and
 - (v) the identity of all persons present.
- (B) Conducting the Deposition; Avoiding Distortion. If the deposition is recorded by audio or audiovisual means, the officer must repeat the items in Rule 30(b)(5)(A)(i)

through (iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance, voice, and demeanor must not be distorted through recording techniques.

(C) After the Deposition. At the end of the deposition, the officer must state or note on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other relevant matters.

(6) *Notice or Subpoena Directed to an Entity.* In its deposition notice or subpoena, a party may name as the deponent a public or private corporation, a limited liability company, a partnership, an association, a governmental agency, or other entity, and must then describe with reasonable particularity the matters for examination. The named entity must then designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf. If the entity designates more than one person to testify, it must set out the matters on which each designated person will testify. Each designated person must testify about information known or reasonably available to the entity. This Rule 30(b)(6) does not preclude a deposition by any other procedure allowed by these rules.

(c) Examination and Cross-Examination; Record of the Examination; Objections; Conferences Between Deponent and Counsel; Written Questions.

(1) *Examination and Cross-Examination.* The examination and cross-examination of a deponent proceed as they would at trial under the Arizona Rules of Evidence, except for Rules 103 and 615. Any party not present within 30 minutes after the time specified in the notice of deposition waives any objection that the deposition was taken without its presence. After putting the deponent under oath or affirmation, the officer personally--or a person acting in the presence and under the direction of the officer--must record the testimony by the method(s) designated under Rule 30(b)(3).

(2) *Objections.* The officer must note on the record any objection made during the deposition--whether to evidence, to a party's, deponent's, or counsel's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition. An objection must be stated concisely, in a nonargumentative manner, and without suggesting an answer to the deponent. Unless requested by the person who asked the question, an objecting person must not specify the defect in the form of a question or answer. Counsel may instruct a deponent not to answer--or a deponent may refuse to answer--only when necessary to preserve a privilege, to enforce a limit ordered by the court, or to present a motion under Rule 30(d)(3). Otherwise, the deponent must answer, and the testimony is taken subject to any objection.

(3) *Conferences Between Deponent and Counsel.* The deponent and his or her counsel may not engage in continuous and unwarranted conferences off the record during the deposition. Unless necessary to preserve a privilege, the deponent and his or her counsel may not confer off the record while a question is pending.

(4) *Participating Through Written Questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party who noticed the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) Duration; Sanctions; Motion to Terminate or Limit.

(1) *Duration.* Unless the parties agree or the court orders otherwise, a deposition is limited to 4 hours and must be completed in a single day. Depositions of fact witnesses are further limited by the total amount of time permitted for fact witnesses by a case's tier assignment under Rule 26.2(f), which limit may not be extended except as provided in Rule 26.2(g) and (h). Notwithstanding those limits, the court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) *Sanctions.* The court may impose appropriate sanctions--including any order under Rule 16(h)--against a party or attorney who has engaged in unreasonable, groundless, abusive, or obstructionist conduct in connection with a deposition including an unreasonable refusal to agree to extend a deposition beyond 4 hours.

(3) *Motion to Terminate or Limit.*

(A) *Grounds.* At any time during a deposition, the deponent or a party may move to terminate or limit the deposition on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The deponent or party must file the motion in the court where the action is pending or the court where the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) *Order.* The court may order that the deposition be terminated or that its scope and manner be limited as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the court where the action is pending.

(C) *Award of Expenses.* Rule 37(a)(5) applies to the award of expenses.

(e) Review by the Deponent; Changes.

(1) *Review; Statement of Changes.* If requested by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign and deliver to the officer a statement listing the changes and the reasons for making them.

(2) *Officer's Certificate to Attach Changes.* The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent made during the 30-day period.

(f) *Officer's Certification and Delivery; Documents and Tangible Things; Copies of the Transcript or Recording.*

(1) *Certification and Delivery.* The officer must certify in writing that the deponent was duly sworn by the officer and that the deposition accurately records the deponent's testimony. The certificate must accompany the record of the deposition. Unless the court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly deliver it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) *Documents and Tangible Things.*

(A) *Originals and Copies.* Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition--and any party may inspect and copy them--but if the person who produced them wants to keep the originals, the person may:

- (i) offer copies to be marked, attached to the deposition, and then used as originals--after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or
- (ii) give all parties a fair opportunity to inspect and copy the originals after they are marked--in which event the originals may be used as if attached to the deposition.

(B) *Order Regarding the Originals.* On motion, the court may order that the originals be attached to the deposition until final disposition of the action.

(3) *Copies of the Transcript or Recording.* Unless the parties agree or the court orders otherwise, the officer must retain the record of a deposition according to the applicable records retention and disposition schedules adopted by the Supreme Court. Upon payment of a reasonable charge, the officer must provide a copy of the transcript or recording to any party or to the deponent.

...

Rule 43. Taking Testimony

...

(g) *Preserving Recording of Court Proceedings*

- (1) *Transcripts and Other Recordings.* The official verbatim recording of any court proceeding is an official record of the court. The original recording must be kept by the person who recorded it, a court-designated custodian, or the clerk in a place designated by the court. The recording must be retained according to the records retention and disposition schedules adopted by the Supreme Court, unless the court specifies a different retention period.

- (2) *Transcription.* If a court reporter's verbatim recording is to be transcribed, the court reporter who made the recording must be given the first opportunity to make the transcription, unless that court reporter no longer serves in that position or is unavailable for any other reason.

ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 12.4. Who May Be Present During Grand Jury Sessions

(a) *General.* Only the following individuals may be present during grand jury sessions:

- (1) the witness under examination;
- (2) counsel for a witness if the witness is a person under investigation by the grand jury;
- (3) a law enforcement officer or detention officer accompanying an in-custody witness;
- (4) prosecutors authorized to present evidence to the grand jury;
- (5) a certified court reporter; and
- (6) an interpreter, if any.

(b) *Deliberations.* Only grand jurors may be present during their deliberation and voting.

Rule 12.7. Record of Grand Jury Proceedings

(a) *Court Reporter.* The presiding or impaneling judge must assign a certified court reporter to record all grand jury proceedings, except its deliberations.

(b) *Foreperson.* The foreperson must keep a record of how many grand jurors voted for and against an indictment, but must not record how each grand juror voted. If the grand jury returns an indictment, the foreperson's record of the vote must be transcribed by the court reporter and filed with the court no later than 20 days after the return of the indictment, and may be made available only to the court, the State, and the defendant.

(c) *Filing the Transcript and Minutes.* The court reporter's record of grand jury proceedings must be transcribed and filed with the superior court clerk no later than 20 days after return of the indictment, and may be made available only to the court, the State, and the defendant.

Rule 31.2. Notice of Appeal or Notice of Cross-Appeal

...

(b) *Automatic Appeal for a Defendant Sentenced to Death.* As provided in Rule 26.15, when a defendant has been sentenced to death, the superior court clerk must file a notice of appeal on the defendant's behalf after the oral pronouncement of sentence. That notice constitutes a notice of appeal by the defendant with respect to all judgments entered and sentences imposed in that case. No later than 10 days after the notice of appeal is filed, the clerk must notify all assigned court

reporters or transcribers that they are required to transmit their portions of the certified transcript to the Supreme Court clerk.

...

Rule 31.8. The Record on Appeal

(a) Composition of the Record on Appeal.

(1) *Generally.* The record on appeal consists of:

- (A) all documents (including minute entries, exhibit lists, transcripts, and other items) filed in the superior court on or before the effective date of the filing of a notice of appeal, a notice of cross-appeal, or an amended notice of appeal;
- (B) the index prepared under Rule 31.9(b);
- (C) all documents, papers, books, and photographs introduced into evidence; and
- (D) certified transcripts of oral proceedings, as provided in Rule 31.8(b).

(2) *Additions and Deletions.*

- (A) By Appellant. No later than 30 days after filing a notice of appeal, the appellant may file with the superior court clerk a designation to include in the record any item not within (a)(1)(C) that the appellant deems necessary, and to delete from the record all the documents, papers, books, and photographs the appellant deems unnecessary.
- (B) By Appellee. No later than 30 days after the opening brief is filed, the appellee may file with the superior court clerk a designation to include in the record any item not within (a)(1)(C) that the appellee deems necessary, and any document, paper, book, or photograph deleted by the appellant. The superior court clerk must supplement the record accordingly.
- (C) By the Appellate Court. An exhibit other than those listed in (a)(1) -- including the excised portion, if any, of a presentence, diagnostic, or mental health report--may be added to the record on appeal only by order of the appellate court. The court may enter such an order at any time.
- (D) Notice to Other Parties. An appellant or appellee must serve any designation or request made under this rule on all other parties when the party submits the designation or request.

(b) Certified Transcripts.

(1) *Generally.* The record on appeal includes certified transcripts as follows:

- (A) if the defendant is sentenced to death, the record on appeal must include a certified transcript of all recorded proceedings, including grand jury proceedings; and
- (B) in all other cases, the record on appeal must include a certified transcript of the following proceedings:
 - (i) any voluntariness hearing or hearing to suppress the use of evidence;
 - (ii) all trial proceedings, excluding the record of voir dire unless a party specifically designates it;

- (iii) any aggravation or mitigation hearing;
- (iv) proceedings for the entry of judgment and sentence; and
- (v) any probation violation proceeding.

(2) *Additions and Deletions.*

- (A) By Appellant. No later than 30 days after filing a notice of appeal, the appellant may request from the certified court reporter or, if the record was made by electronic or other means, the court's designated transcript coordinator:
 - (i) a certified transcript of any proceeding not automatically included under (b)(1); and
 - (ii) to exclude from a certified transcript any portion of the proceedings the appellant deems unnecessary for a proper hearing of the appeal.
- (B) By Appellee. No later than 30 days after the opening brief is filed, the appellee may request from the certified court reporter or, if the record was made by electronic or other means, the court's designated transcript coordinator, a certified transcript of:
 - (i) any portion of a proceeding deleted by the appellant; and
 - (ii) a proceeding not automatically included under (b)(1).
- (C) Untimely Request. For good cause shown, a party may request an addition to the record under (b)(2)(A) and (B).
- (D) Notice to Other Parties. An appellant or appellee must serve any designation or request made under this rule on all other parties when the party submits the designation or request.

(c) *Authorized Transcriber: Time to Prepare, and Payment Arrangements for, Certified Transcripts.*

- (1) *Generally.* Every transcript in the record on appeal must be prepared by an authorized transcriber. An “authorized transcriber” as used in this rule means a certified reporter or a transcriber under contract with an Arizona court. There may be multiple authorized transcribers for a single case.
- (2) *Court Reporter.* If a certified reporter attended a proceeding in the superior court, a party must order a certified transcript of proceedings directly from that reporter.
- (3) *Audio or Video Recording.* If the superior court created only an audio or audio-video recording of the proceeding, a party must order a certified transcript of the proceeding directly from an authorized transcriber. Unless the ordering party is an indigent defendant, the superior court will furnish the transcriber with a copy of the designated electronic recording upon receiving a notice from the transcriber that the transcriber has reached a satisfactory arrangement for payment. All parties to the appeal must cooperate with the transcriber by providing information that is necessary to facilitate transcription.
- (4) *Time to Prepare.* The authorized transcriber must prepare the certified transcript promptly upon receiving a notice of appeal either:
 - (A) by the State; or

(B) by the defendant if the notice indicates that the defendant was represented by appointed counsel when found guilty or when sentenced.

(5) *Non-Indigent Defendant.* No later than 5 days after filing a notice of appeal or after the denial of a request during the appeal to proceed as indigent, a non-indigent defendant must make payment arrangements with the authorized transcriber for the certified transcript. The authorized transcriber then must promptly prepare the certified transcript. The authorized transcriber must notify the appellate court if the defendant fails to make satisfactory payment arrangements within the prescribed time.

(6) *Additions and Deletions.* The authorized transcriber must promptly add or delete any portions requested by the parties. Non-indigent defendants must pay for all portions of the record on appeal and certified transcripts that they have designated or requested.

(d) Authorized Transcriber: Manner of Delivering Transcripts.

(1) *Delivery to the Appellate and Trial Courts.* The authorized transcriber must file a certified electronic transcript of proceedings with the appellate and trial court clerks within the time allowed for the superior court clerk to transmit the record to the appellate court under Rule 31.9(c).

(2) Delivery to the State.

(A) If an Appellee. If the State is the appellee, the authorized transcriber must deliver an electronic copy of the certified transcript to the Attorney General and the appropriate county attorney's office, if any.

(B) If an Appellant. If the State is the appellant, the authorized transcriber must deliver an electronic copy of the certified transcript to the agency that prosecuted the case in the superior court.

(3) Delivery to the Defendant.

(A) Electronic. The authorized transcriber must submit the electronic transcript for the defendant to the superior court clerk, who will provide the electronic transcript to the defendant's appellate counsel or to the defendant, if self-represented.

(B) Paper. If defense counsel or a self-represented defendant requires or requests a paper transcript rather than an electronic transcript, the authorized transcriber must submit the defendant's paper copy to the superior court clerk, who will transmit the copy to the defendant's appellate counsel or to the defendant, if self-represented.

(C) Exception. If a local rule or administrative order prescribes a procedure different from (d)(3)(A) or (B), the authorized transcriber must distribute the defendant's copy as provided in that rule or order.

(4) *Notice of Service.* The authorized transcriber must file with the appellate court a notice of service of the certified transcript. The notice must state when and on whom service was made.

Rule 31.9. Transmission of the Record to the Appellate Court

- (a) *Transcripts.* The authorized transcriber provides transcripts of superior court proceedings to the appellate court as provided in Rule 31.8(d).
- (b) *Official Documents; Index.* After a party files a notice of appeal, the superior court clerk must prepare a numerical index of the documents in the superior court's file (the “*index*”). The superior court clerk must promptly distribute a copy of the index to every party to the superior court judgment that is the subject of the appeal.
- (c) *Electronic Transmission by the Superior Court Clerk.*
- (1) *Generally.* No later than 45 days after a notice of appeal is filed, the superior court clerk must electronically transmit to the appellate clerk, and make available to all parties:
 - (A) all documents filed in the superior court before the effective date of the filing of the notice of appeal, a notice of cross-appeal, or an amended notice of appeal, including minute entries, notices of appeal and cross-appeal, and the index;
 - (B) every exhibit listed or designated under Rule 31.8(a) in paper, electronic, or photographic form, unless relieved by the appellate court of an obligation to do so; and
 - (C) any other items requested by the appellate clerk.
 - (2) *Extension and Reduction of Time.* For good cause and after considering the rights of the victim, the appellate court may grant one 20-day extension for transmitting the record on appeal. The appellate court also may order the superior court clerk to transmit the electronic record, or a portion of the record, at an earlier time or it may order physical transmission of the entire record or portions of the record under (d). The appellate clerk must distribute a copy of any order entered under this rule to the parties, the superior court clerk, and to the requesting authorized transcriber.
 - (3) *Supplementation.* At any time during the appeal, the appellate court may direct the superior court clerk by an order or written request to transmit portions of the record that were not included in previous transmissions.
- (d) *Physical Transmission by the Superior Court Clerk.* The superior court clerk must notify the appellate clerk and the parties to the appeal of any items in the superior court's record of a size, bulk, or condition that makes their electronic transmission impractical. If any of those items are necessary for a determination of issues raised on appeal, the appellate court, on motion or on its own, may order that the superior court clerk transmit to the appellate court any or all of these items in physical form. Alternatively, the parties may stipulate to the method of transmitting the item.

(e) *Notice that the Record Was Received.* When the appellate clerk receives all of the record on appeal, the appellate clerk must promptly give all parties notice of that fact and the date on which the clerk received the complete record

**Rule 32.4 Filing of Notice and Petition, and Other Initial Proceedings
[Post-Conviction Relief]**

...

(e) *Transcript Preparation.*

- (1) *Requests for Transcripts.* If the trial court proceedings were not transcribed, the defendant may request that certified transcripts be prepared. The court or clerk must provide a form for the defendant to make this request.
- (2) *Order.* The court must promptly review the defendant's request and order the preparation of only those transcripts it deems necessary for resolving issues the defendant will raise in the petition.
- (3) *Deadline.* Certified transcripts must be prepared and filed no later than 60 days after the entry of the order granting the request.
- (4) *Cost.* If the defendant is indigent, the transcripts must be prepared at county expense.
- (5) *Extending the Deadline for Filing a Petition.* If a defendant requests the preparation of certified transcripts, the defendant's deadline for filing a petition under (c) is extended by the time between the request and either the transcripts' final preparation or the court's denial of the request.

...

RULES OF SUPREME COURT OF ARIZONA

Rule 30. Verbatim Recording of Judicial Proceedings

(a) *Transcripts of court proceedings; standards.* A transcript is a document containing a verbatim record of the spoken words of a court proceeding prepared from either the certified reporter's notes or other verbatim record of the proceeding. Transcripts certified for use by any court shall be:

1. Prepared and certified by an authorized transcriber in accordance with the standards set forth in the Arizona Manual of Transcript Procedures. The current version of this manual is available from the Administrative Office of the Courts.
2. For purposes of this rule, an "authorized transcriber" means:
 - a. a certified reporter;
 - b. an individual or a transcription service under contract with an Arizona court; or
 - c. An individual employed by a court whose official duties include the preparation of transcripts.

(b) *Use of Court Reporting Resources.*

1. Request for certified reporter. Any party to any action in superior court may request that any proceeding in that action be recorded by a certified court reporter. The court shall grant the request if it is made at least three days prior to the proceeding to be recorded unless a different time frame has been established by local rule.
2. Making the record in the absence of a timely request for a court reporter. Except as provided in (3) below, in the absence of a timely request for a certified court reporter the record will be made in a manner within the sound discretion of the court.
3. Proceedings requiring a certified court reporter. The following proceedings shall be recorded by a certified court reporter and not solely by electronic means, unless this requirement is waived by the parties and the court approves the waiver:
 - a. Grand jury proceedings;
 - b. All proceedings in a first degree murder case, pursuant to A.R.S. § 13-1105, once the intention to seek the death penalty notice has been filed;
 - c. Felony jury trials;
 - d. Initial determinations of sexually violent person status, pursuant to A.R.S. § 36-3706;
 - e. Proceedings on a request for authorization of abortion without parental consent, pursuant to A.R.S. § 36-2152.
4. Official record. When an Arizona-certified court reporter records a proceeding in a superior court that is simultaneously recorded by electronic recording equipment, the court reporter's record shall be the official record. The transcript in any case certified by the reporter or other authorized transcriber shall be deemed prima facie a correct

statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other authorized transcriber.

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(h) Uniform Size of Electronic and Paper Transcripts.

- (1) The certified transcript of testimony of any proceeding shall be furnished by the authorized transcriber formatted for 8 1/2 by 11 inch paper having 25 lines per page with total combined margins of text not to exceed 2 and 1/8 inches.
- (2) A deposition transcript, reduced in size, consisting of not more than four pages of text printed on one 8 1/2 by 11 inch page, may be furnished.

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