



**Arizona Supreme Court  
Defensive Driving Board**

Arizona State Courts Building  
1501 West Washington Street  
Phoenix, Arizona 85007  
Hearing Room 109

Date: August 15, 2012  
Time: 10:00 A.M.

**APPROVED Regular Meeting Minutes**

**MEMBER ATTENDANCE**

**Present:**

Elaine Acosta Sweet  
Thomas Davis  
Daniel Edwards  
Melissa Caraker  
Robert Hall  
William (Patch) Pachnowski  
Gordon Fox  
Paul Hallums  
Judge Gary LaFleur

**Telephonically Present:**

Lynette Rudow

**Absent:**

**OTHER ATTENDEES:**

**AOC Staff:**

Nancy Swetnam  
Jennifer Greene  
Anne Hunter  
Linda Grau  
Rick Sczerbicki  
Kimberly Siddall  
Chris DeWitt  
Afton Foutz  
Bill MacIntyre  
Debbie MacDougall  
Wendy Reiter

**Guests:**

Casey Albitre  
Mike Truscio  
Ferdinand Hess  
Debbie Grado  
Alex Smith  
Greg Cupper  
Hannah Pinner  
April Wright  
Maria Medina  
Stephanie Schwartz

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**CALL TO ORDER**

***Called to Order By:*** Elaine Acosta Sweet

***Time:*** 9:59 A.M.

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**1) REVIEW AND APPROVAL OF MINUTES**

***1-A: Review, discussion, and possible action regarding the regular session minutes for the meeting of June 20, 2012.***

***Individuals Addressing the Board:*** Elaine Acosta Sweet

***Discussion:*** None

***Motion:*** Move to approve the regular session minutes for the meeting of June 20, 2012.

***Motion Proposals:*** First Robert Hall  
Second Paul Hallums

***Motion Results:*** Passed

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**4) INITIAL CERTIFICATION APPLICATIONS**

***4-A: Review, consideration and possible action regarding pending initial certification applications of the following defensive driving instructors:***

1. Bruce Novak
2. Crystal Coughlin
3. Katherine Hernandez
4. Michelle Stock
5. Pamela Grone
6. Steven Holdman
7. Thomas Lauerman
8. Wayne Church

***Individuals Addressing the Board:*** Kimberly Siddall

***Discussion:*** Applicants Bruce Novak, Michelle Stock, Pamela Grone, Steven Holdman and Thomas Lauerma have provided all documentation required for initial certification. Staff recommends that the Board grant certification to applicants: Bruce Novak, Michelle Stock, Pamela Grone, Steven Holdman and Thomas Lauerma.

***Motion:*** Motion to accept staff's recommendation and grant initial certification to applicants: Bruce Novak, Michelle Stock, Pamela Grone, Steven Holdman and Thomas Lauerma.

***Motion Proposals:*** First William Pachnowski  
Second Thomas Davis

***Motion Results:*** Passed

***Discussion:*** Staff is waiting for additional documentation from applicants: Crystal Coughlin, Katherine Hernandez, and Wayne Church. Staff recommends that the Board defer consideration of the initial applications of Crystal Coughlin, Katherine Hernandez, and Wayne Church until the October 17, 2012 meeting.

***Motion:*** Motion to accept staff's recommendation and defer consideration of the initial applications of Crystal Coughlin, Katherine Hernandez, and Wayne Church until the October 17, 2012 meeting.

***Motion Proposals:*** First Paul Hallums  
Second Lynette Rudow

***Motion Results:*** Passed

***4-B: Review, consideration and possible action regarding pending initial certification applications of the following defensive driving schools:***

1. *Crash and Learn, LLC*
2. *AZDriverSafety.com*
3. *All Over Arizona Traffic School, LLC*
4. *Go and Learn AZ Traffic School, LLC*
5. *100% Pass and GO Traffic School, LLC*
6. *Southwest Traffic School, LLC*
7. *Defensive Driving School of Arizona*

**Individuals Addressing the Board:** Chris DeWitt, Elaine Sweet

1. Crash and Learn, LLC

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant initial certification to applicant school, Crash and Learn, LLC.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, Crash and Learn, LLC.

**Motion Proposals:** First Daniel Edwards  
Second Lynette Rudow

**Motion Results:** Passed

2. AZDriverSafety.com

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant initial certification to applicant school, AZDriverSafety.com.

Judge LaFleur requested that staff provide a copy of all applications for new applicant schools.

Division staff and the Board members discussed the necessity of providing applications for initial certification of a school to the Board, in their entirety. The Board was informed that staff will provide the requested documentation; however such documentation will be redacted.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, AZDriverSafety.com

**Motion Proposals:** First Daniel Edwards  
Second Melissa Caraker

**Motion Results:** Passed

3. All Over Arizona Traffic School, LLC

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant

initial certification to applicant school, All Over Arizona Traffic School, LLC.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, All Over Arizona Traffic School, LLC.

**Motion Proposals:**

First	Lynette Rudow
Second	Daniel Edwards
Recusals	Paul Hallums Robert Hall Melissa Caraker

**Motion Results:** Passed

4. Go and Learn AZ Traffic School, LLC

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant initial certification to applicant school, Go and Learn AZ Traffic School, LLC.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, Go and Learn AZ Traffic School, LLC.

**Motion Proposals:**

First	William Pachnowski
Second	Daniel Edwards
Recusal	Robert Hall
Abstained	Judge LaFleur

**Motion Results:** Passed

5. 100% Pass and GO Traffic School, LLC

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant initial certification to applicant school, 100% Pass and GO Traffic School, LLC.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, 100% Pass and GO Traffic School, LLC.

**Motion Proposals:**

First	Daniel Edwards
Second	Lynette Rudow
Recusal	Robert Hall

***Motion Results:*** Motion did not carry. Issue deferred for further discussion.  
Motion failed.

***Individuals Addressing the Board:*** Elaine Acosta Sweet, Paul Hallums, April Wright,  
Judge LaFleur, Nancy Swetnam, Gordon Fox

***Discussion:*** Paul Hallums stated his concern that the name 100% Pass and GO Traffic School, LLC is misleading to the public and inappropriate for the Board to approve.

Elaine Acosta Sweet states that the Board has addressed this issue previously and that there is currently no basis by which to determine what is an acceptable name and what is an unacceptable name.

April Wright, principal of applicant school 100% Pass and GO Traffic School, LLC addressed the Board member's concerns about the appropriateness/misleading nature of the school's name, stating that there is no intent on behalf of the principal to mislead the public.

Judge LaFleur reiterates concerns that the name is misleading.

Nancy Swetnam encouraged the Board to make their decision concerning approval of the initial certification for the school based on the provisions that exist in ACJA § 7-205 today, not based on the proposed amendments to ACJA § 7-205.

Gordon Fox voiced concerns that the misnomer is a violation of ethics.

Elaine Acosta Sweet proposes a compromise of certifying the school under a different name.

April Wright requests clarification on the point of contention in the name 100% Pass and GO Traffic School, LLC.

Elaine Acosta Sweet and Judge LaFleur specify that it is the words "100%" and "Pass" in combination that present an issue for the Board members.

Judge LaFleur states that because the LLC documentation does not list the name "Pass and Go Traffic School" but "100% Pass and

GO Traffic School, LLC.” The Board can not approve the certification of a business entity that does not exist.

Judge LaFleur proposes a consent agreement that stipulates that the Board will grant certification to the business entity only if Ms. Wright will agree not to do business as 100% Pass and GO Traffic School, LLC and to do business instead solely under the DBA of “Pass and GO Traffic School, LLC.”

Nancy Swetnam specifies that the consent to do business under the DBA, Pass and GO Traffic School, LLC will include everything associated with the certification as a school and how the business is conducted.

(For the purposes of accuracy in relation to the consent agreement between the Board and April Wright and all relative motions before the Board in regards to this consent, the following verbiage has been transcribed from the recording of the Board meeting.)

**April Wright:** “To me, I’m thinking that that means new LLC paperwork, but you know that’s something on my side that I would do is what I’m saying. Does that sound, I mean...”

**Judge LaFleur:** “You would still be able...As an LLC, you don’t have to file any reports anyway with the Corporation Commission, so you would still be, for all intents and purposes the same LLC. But Nancy is right, as it is a consent agreement you would only agree you would not market, you would not on your website, use any marketing materials, any materials you have, anything you use with the school would say ‘Pass and Go.’ For the purposes of operating it in accordance with the Supreme Court rules and with this Board, just to be a total separate issue from the Corporation Commission.”

**April Wright:** “Mmhmm.”

**Judge LaFleur:** “And I am sure you would also want to file your DBA with the Corporation Commission, just to be sure that no one else grabs it, too.”

**April Wright:** “And just do a DBA instead of a full LLC?”

**Judge LaFleur:** “That would certainly seem to be a way it would work.”

**April Wright:** (to Nancy Swetnam) “Is that what you are recommending, as well?”

**Nancy Swetnam:** “Yeah.”

**Elaine Acosta Sweet:** “Is it appropriate for me to amend the motion before us?”

**Judge LaFleur:** “Make a new motion.”

**Elaine Acosta Sweet:** “We have a motion before us that was moved and seconded. Can I withdraw it or do I need to...Nancy.”

**Nancy Swetnam:** “I think it’s important that whatever we have here and whatever motion the Board is going to take at this point in time or action the Board is going to take that I think we can do this and Jennifer, again, I am going to ask for your assistance here. That if the Board is so inclined, that you could make a motion that there would be a consent agreement in writing where there is an agreement. Umm...as to what we just talked about, including the advertising, etc., the marketing so that and then, Madam Chair, you would be signing that on behalf of the Board and you (to April Wright) would also be signing it.”

**Elaine Acosta Sweet:** “That is what I wanted to do and I will amend the motion.”

**Nancy Swetnam:** “And so, I think that can be done if you are in agreement so that that consent agreement could be executed following this meeting and it wouldn’t require it coming back to the next Board meeting if that is what you are inclined to do.”

**Judge LaFleur:** (indecipherable comment) “I think, Madam Chair, just take a friendly amendment from one of the other Board members to go to a consent decree upon the terms that we’re discussing. I think that would bring us to where we want to be. You made the motion, so you would have to be the one to accept the friendly amendment.”

**Elaine Acosta Sweet:** “Judge LaFleur, I would accept a friendly amendment. Please state...”

**Paul Hallums:** “And I would second it.”

**Judge LaFleur:** “It would be a friendly amendment that the staff would be authorized to enter into a consent agreement with Ms. Wright in that 100% Pass and GO Traffic School LLC’s application on signing the consent decree would be accepted to do business as Pass and Go Traffic School, for all purposes, advertising and website and materials.”

**Nancy Swetnam:** “Could I just ask that you make a friendly amendment to the friendly amendment? It wouldn’t be that staff would do it. It would be that the Chair would sign on behalf of the Board.”

**Judge LaFleur:** “Very good. Chair would be authorized to sign on behalf of the Board to enter into such an agreement.”

***Motion:***

Motion to accept staff’s recommendation and grant initial certification to applicant, 100% Pass and GO Traffic School, LLC with the amendment that the Board would be authorized to enter into a consent agreement with Ms. Wright stipulating that 100% Pass and GO Traffic School, LLC’s is accepted to do business as Pass and GO Traffic School, LLC for all purposes, advertising,

website and materials and that the Chair be authorized to sign the consent agreement on behalf of the full Board.

**Motion Proposals:** First Judge LaFleur  
Second Paul Hallums  
Recused Robert Hall

**Motion Results:** Passed

#### 6. Southwest Traffic School, LLC

**Individuals Addressing the Board:** Chris DeWitt

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant initial certification to applicant school, Southwest Traffic School, LLC.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, Southwest Traffic School, LLC

**Motion Proposals:** First Daniel Edwards  
Second Judge LaFleur

**Motion Results:** Passed

#### 7. Defensive Driving School of Arizona

**Discussion:** Division staff has performed a review of the new school's application and curriculum and recommends that the Board grant initial certification to applicant school, Defensive Driving School of Arizona.

**Motion:** Motion to accept staff's recommendation and grant initial certification to applicant, Defensive Driving School of Arizona.

**Motion Proposals:** First Lynette Rudow  
Second William Pachnowski

**Motion Results:** Passed

**Discussion:** Judge LaFleur requests that when providing materials in the future, the staff include a list of all the other schools that any applicant is

involved with and any disciplinary history they may have with any school with which they are affiliated.

Elaine Acosta Sweet announces Nancy Swetnam's retirement and thanks her for all the years that she has supported the Board and the exemplary work that she has done.

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**2) REVIEW OF PENDING COMPLAINTS.....Linda Grau**

**2-A: Review, discussion and possible action regarding the following certificate holder complaints:**

Complaint Number 10-D002- Arizona Defensive Driving School

**Individuals Addressing the Board:** Linda Grau, Nancy Swetnam

**Discussion:** On July 17, 2012, Probable Cause Evaluator Mike Baumstark entered a finding that probable cause does not exist in complaint number 10-D002. Staff recommends that the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 10-D002.

Mike Truscio, principal of Arizona Defensive Driving School, requested that the record show that this complaint was filed prior to his purchase of the school and concerned an employee that no longer works for the company.

**Motion:** Motion to accept staff's recommendation and dismiss Complaint Number 10-D002.

**Motion Proposals:** First Paul Hallums  
Second Robert Hall

**Motion Results:** Passed

Complaint Number 10-D004 – Arizona Driver.com

**Discussion:** On July 17, 2012, Probable Cause Evaluator Baumstark entered a finding that probable cause exists in complaint number 10-D004. Staff recommends that the Board accept the finding of the Probable Cause Evaluator and enter a finding that grounds for informal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a) for

an act of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-205(F)(19) and (J)(1)(d) and issue a Letter of Concern.

Robert Hall indicates that he has reviewed the website for ArizonaDriver.com and believes it to be deceiving.

Judge LaFleur states that he agrees with the finding of the Probable Cause Evaluator in the case, but believes that more formal sanctions should be considered in this case; the recommended sanctions are not severe enough.

Gordon Fox expressed concern that there were far more people affected by the “alleged programming error.”

Linda Grau explained that there is no way to prove what was actually said during the discussion between the student and the school when the school requested the additional fees be paid.

***Motion:*** Motion to enter Executive Session to receive advice of counsel concerning what options are available to the Board for disciplinary sanctions in this case.

***Motion Proposals:*** First Paul Hallums  
Second Robert Hall

***Motion Results:*** Passed

***Executive Session entered 10:49 A.M.***

***Return to Regular Session 11:01 A.M.***

***Motion:*** Motion is made that the Board take no action on Complaint Number 10-D004 at this time, pending further investigation by division staff, specifically concerning the following stipulations: Who made the programming errors in question? When was the programming error made? When was the programming error corrected? How many people were impacted by it? Were the staff members involved retrained? Can the former employee be contacted for questioning regarding the matter?

Linda Grau noted that the principal at the time submitted a statement that she had conducted a re-training to make sure that the employees were clear on what the rules were.

Gordon Fox questioned how the information that the school would provide to show how many people were or were not affected by this error could be validated.

Nancy Swetnam responded that the data tracking system would allow for us to compare through reconciliation reports. Linda Grau made note that the information may or may not be available due to changes that have occurred in the system and the process since the time the complaint was filed.

***Motion Proposals:*** First Judge LaFleur  
Second Robert Hall

***Motion Results:*** Passed

Complaint Number 11-D004 –Arizona Driver.com

***Discussion:*** On July 17, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 11-D004. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator, adopt the written recommendation and dismiss complaint number 11-D004.

Linda Grau clarified that there was communication between the school and the student in which the issue of identification was resolved, however, by that time the deadline had already passed. The school felt that the fair thing to do was to return the fees to the student as he was no longer eligible for the class.

Judge LaFleur asked if the student was ever allowed to go to driving school.

***Motion:*** Motion to accept staff's recommendation and dismiss Complaint Number 11-D004 and to accept further the staff recommendation.

***Motion Proposals:*** First Paul Hallums  
Second Thomas Davis  
Dissenting Votes Gordon Fox, Robert Hall, Paul Hallums,  
Judge LaFleur, Daniel Edwards

***Motion Results:*** Motion fails due to equality of votes.

**Motion:** Motion to defer this matter until the next meeting with the instruction for further investigation to determine whether or not this individual was precluded from the option of attending defensive driving school due to the delays in the processing.

**Motion Proposals:** First Judge LaFleur  
Second Robert Hall

**Motion Results:** Passed

Complaint Number 11-D006 –American Safety Council

**Discussion:** On July 9, 2012, Probable Cause Evaluator Baumstark entered a finding that probable cause does not exist in complaint number 11-D006. Staff recommends that the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 11-D006.

**Motion:** Motion to accept staff's recommendation to accept the finding of the Probable Cause Evaluator and dismiss complaint number 11-D006.

**Motion Proposals:** First Lynette Rudow  
Second William Pachnowski  
Recused Paul Hallums

**Motion Results:** Passed

Complaint Number 11-D005 –GoToTrafficSchool.com

**Discussion:** On July 17, 2012, Probable Cause Evaluator Baumstark entered a finding that probable cause exists in Allegation 1 and does not exist in Allegation 2 of complaint number 11-D005. Staff recommends that the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation 2. Regarding Allegation 1, it is recommended the Board enter a finding that GoToTrafficSchool.com committed the alleged act of misconduct and grounds for informal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for violations of ACJA § 7-201(F)(1), ACJA § 7-205(F)(1), (F)(19), (F)(28)(f)(2) and (J)(1)(d) and issue a Letter of Concern.

**Motion:** Motion to accept the finding of the Probable Cause Evaluator and dismiss Allegation 2 in complaint number 11-D005.

**Motion Proposals:** First Judge LaFleur  
Second Robert Hall

**Motion Results:** Passed

**Motion:** Motion to accept the recommendation and enter a finding that GoToTrafficSchool.com committed the alleged act of misconduct and grounds for informal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) for violations of ACJA § 7-201(F)(1), ACJA § 7-205(F)(1), (F)(19), (F)(28)(f)(2) and (J)(1)(d) and issue a Letter of Concern.

**Motion Proposals:** First Daniel Edwards  
Second Paul Hallums

**Motion Results:** Passed

Complaint Number 12-D002 –GoToTrafficSchool.com

**Discussion:** On July 17, 2012, Probable Cause Evaluator Baumstark entered a finding that probable cause does not exist in complaint number 12-D002. Staff recommends that the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 12-D002.

Elaine Acosta Sweet asked if anyone obtained information from the student as to why he waited nine minutes before he submitted his information.

Rick Sczerbicki, the investigator in this case, stated that the student thought he was supposed to wait the fifteen minutes and that he misunderstood the instructions.

**Motion:** Motion to accept the finding of the Probable Cause Evaluator and dismiss complaint number 12-D002.

**Motion Proposals:** First Lynette Rudow  
Second Daniel Edwards

**Motion Results:** Passed

Complaint Number 12-D001 –DrivingUniversity.com

**Discussion:** On July 20, 2012, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 12-D001. Therefore, it is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 12-D001.

**Motion:** Motion to accept the finding of the Probable Cause Evaluator and dismiss complaint number 12-D001.

Elaine Acosta Sweet asked whether or not the student was refunded his/her money. There was a statement that said the school had no record of the student signing up for the class, but the court knew.

Linda Grau stated that the complainant asked the school if the student had received a refund or had otherwise been informed that he had to take the exam, and to that end the court administrator reported that the school indicated that they had not contacted the student at all, subsequent to the events that transpired leading the court to make the complaint.

Elaine Acosta Sweet asked if the student paid for the class and did not take the class and did not receive a refund then what happened to the payment.

Linda Grau stated that because the student didn't take the class than there was nothing to report to the court.

**Motion Proposals:** First Gordon Fox  
Second Thomas Davis

**Motion Results:** Passed

**3) ADMINISTRATIVE ISSUES.....Nancy Swetnam**

*3-A: Review, discussion and possible action regarding proposed amendments to the Defensive Driving Program, including proposed amendments to Arizona Code of Judicial Administration § 7-201 and § 7-205.*

**Individuals Addressing the Board:** Nancy Swetnam

1. *Certification of Schools*
2. *Instructor Certification*
3. *School Fees*
4. *Web Page Design*
5. *Eligibility for Defensive Driving Attendance*

## **1. CERTIFICATION OF SCHOOLS**

E. Initial Certification. In addition to the requirements of ACJA § 7-201(E), the following requirements apply:

1. Eligibility for Certification as a School. An applicant for certification as a defensive driving schools shall:

*Alternative language suggested by the Subcommittee:*

- a. Apply for certification as a classroom school, ADM school or teenage driver school. An applicant may apply for certification for a classroom ADM or teenage driver school; using a separate application and paying a separate certification fee for each application. If the applicant school is granted certification, the certification shall be linked to the approved curriculum.

**Discussion:** Nancy Swetnam presented the Subcommittee's proposed alternative language to ACJA § 7-205(E)(1).

**Motion:** Motion to adopt the proposed alternative Subcommittee language to ACJA § 7-205(E)(1).

**Motion Proposals:** First Daniel Edwards  
Second Lynette Rudow

**Motion Results:** Passed

### ***Proposal from school owners for an amendment to ACJA § 7-205(E)(1)(d)***

- d. Fully disclose all relationships to any parent company or organization and currently paid or unpaid officers, directors, owners and boards of directions and any and all company subsidiary dba's operating in any state. From and after {date to be inserted}, 2012, a parent company may only have one school; an applicant school is not eligible for certification if the company has one or more dbas.

**Discussion:** Nancy Swetnam presented the school owner's proposed amendment to ACJA § 7-205(E)(1)(d).

**Motion:** Motion that the Board will not support the school's proposal (in regards to ACJA § 7-205(E)(1)(d)).

**Motion Proposals:** First Paul Hallums  
Second Robert Hall

**Motion Results:** Passed

***Proposal from AOC staff for an amendment to ACJA § 7-205(E)(1)(l)***

1. File an administrative, operational and financial procedures manual detailing the applicant's processes for compliance with all Arizona statutes, ACJA § 7-201, this section and court or local rules. The administrative procedures manual shall include specific detail on the process an ADM school shall use to determine a positive identification of the individual enrolled in the defensive driving course, in compliance with subsection F(25)(c)(5). This detail shall include whether or not the ADM school will utilize a third party process for verification of the user identity. Once approved, a school may not change the procedures until the school obtains approval from the board.

**Discussion:** Nancy Swetnam presented the AOC's proposed amendment to ACJA § 7-205(E)(1)(l).

**Motion:** Motion to support the AOC staff proposed amendment to ACJA § 7-205(E)(1)(l).

**Motion Proposals:** First Paul Hallums  
Second Lynette Rudow

**Motion Results:** Passed

***Proposal from school owners for an amendment to ACJA § 7-205(E)(1)(k)***

- k. File an original, copy written defensive driving course curriculum for each modality. A school may not purchase the curriculum from another school. The applicant school shall file this with division staff only by electronic means. The curriculum shall be specific to the modality of delivery: classroom, alternative delivery method or teenage drivers.

**Discussion:** Nancy Swetnam presented the school owners' proposed amendment to ACJA § 7-205(E)(1)(k).

**Motion:** Motion that the Board will not support the school owners' proposed amendment to ACJA § 7-205(E)(1)(k).

**Motion Proposals:** First Judge LaFleur  
Second Daniel Edwards

**Motion Results:** Passed

***Proposal from Judge Anne Segal for an amendment to ACJA § 7-205(E)(1)(l)***

1. Pursuant to A.R.S. § 28-3395, the time allowed for the course, including testing, reviewing and grading of any test, but not including time for completion of an evaluation form, shall not exceed 270 minutes nor be less than 240 minutes. Defensive driving courses shall be presented in an interactive format throughout the course. ADM courses shall indicate to the student the timeframe for completion begins when the student logs into the course. An ADM school shall require students to complete and pass the course participation test. In addition, an ADM or ~~traditional classroom~~ school may require a student to complete a course content review. The curriculum for all AH applicants for certification shall include, at a minimum, the following Arizona specific educational and behavioral modifications:

- (1) Collision prevention, including:
  - (a) Vehicle maintenance; and
  - (b) Recognition of physical, sensory and mental limitations and disabilities, including:
    - (i) Fatigue;
    - (ii) Stress;
    - (iii) Attitude and road rage; and
    - (iv) Inattention and distractions, including texting and using a telephone while driving.
- (2) Practical defensive driving techniques:
  - (a) Reaction time and following distances;
  - (b) The importance of driving safely in adverse conditions; and
  - (c) Proper vision techniques, including:
    - (i) Scanning;
    - (ii) High aim; and
    - (iii) Blind spots.
- (3) Use and importance of safety systems including:
  - (a) Seat belt law and usage;
  - (b) Crash forces and fallacies of not wearing seat belts;

- (c) Child restraint law and proper usage;
  - (d) Air bags; and
  - (e) Anti-lock braking systems.
- (4) Alcohol and drug use including:
- (a) DUI laws, penalties and implied consent;
  - (b) Degree of impairment;
  - (c) Zero tolerance; and
  - (d) Underage drinking and driving.
- (5) Major traffic laws of Arizona and local ordinances, including:
- (a) Speeding;
  - (b) Obeying traffic control devices;
  - (c) Passing;
  - (d) Intersections, lane changes and turning;
  - (e) Stopping and yielding;
  - (f) School crossings;
  - (g) School buses and emergency vehicles;
  - (h) Pedestrians and crosswalks, marked or unmarked; and
  - (i) Major criminal traffic violations.
- (6) If an ADM course, the examination shall consist of twenty-five course participation and identity verification questions having a maximum 30 second timeframe to respond to each question.
- (7) If an ADM course, the course participation examination shall:
- (a) Have a pass rate of 80 percent; and
  - (b) Only be included with the on-line course.
- (8) In addition to the requirements in subsections E(1)(k)(1) –(7), the curriculum and delivery for the teenager’s course shall contain the following components:
- (a) The teenager’s course shall only be delivered via a classroom modality with a live instructor.
  - (b) The last hour of the four hour course shall be exclusively interactive learning for students under the age of twenty years, designed to engage the teenage driver and address topics exclusive to the underage driver.
  - (c) Of the one hour devoted exclusively to teenage drivers, twenty per cent of that time shall be devoted to group interaction among the participants, discussing and answering questions to ten questions based on materials presented during the adult session.
  - (d) Of the one hour, twenty percent of the time shall focus on reinforcement and application of the issues of divided attention regarding texting and telephone use while driving. This will include interactive presentation with an actual demonstration of relayed reacting.
  - (e) Of the one hour, ten percent will be devoted to the issue of live distractions from passengers, other cars, and pedestrians.

- (f) Of the one hour, ten percent shall be allocated to status offenses including minor driving after consumption of alcohol, driver liability for open container, using a false identification.
- (g) If the one hour, ten percent shall be dedicated to a summary of the course and review.

**Discussion:** Nancy Swetnam presented Judge Anne Segal's proposed amendment to ACJA § 7-205(E)(1)(l).

**Motion:** No motion entertained on this matter.

***Proposal from school owners for an amendment to ACJA § 7-205(E)(1)(r)***

- r. Present a demonstration of the defensive driving course curriculum by the applicant's owner, principal or instructor to division staff. The demonstration shall:
  - (1) Include all elements and intended delivery formats as proposed in the applicant's curriculum program, including the ADM defensive driving course examination;
  - (2) Make evident the owner, principal or chief instructor has completed a defensive driving instructor course and understands the curriculum and the curriculum is accurate and created for the state of Arizona's traffic laws; and
  - (3) If the curriculum contains materials that are not original to the applicant or in the public domain, the applicant shall provide written authorization for the use of the materials.

**Discussion:** Nancy Swetnam presented the school owners' proposed amendment to ACJA § 7-205(E)(1)(r).

**Motion:** Motion that the Board will not support the school owners' proposed amendment to ACJA § 7-205(E)(1)(r).

**Motion Proposals:** First Paul Hallums  
Second Daniel Edwards

**Motion Results:** Passed

***Proposal from school owners for an amendment to ACJA § 7-205(E)(1)(s)***

- s. Present, with the application, the results of a course effectiveness study pertaining to the applicant school's curriculum. The effectiveness study shall meet the following criteria:
- (1) Was sponsored and endorsed by a governmental agency;
  - (2) Was not sponsored by a university;
  - (3) Was based on a classroom modality;
  - (4) Contains a detailed statistical analysis of at least 2000 completed students;
  - (5) Compares driver post education performance to that of a control group that did not attend defensive driving school; and
  - (6) The study results must be a statistically significant improvement of ten percent more due to the effectiveness of the course of the applicant school.

***Discussion:*** Nancy Swetnam presented the school owners' proposed amendment to ACJA § 7-205(E)(1)(s).

***Motion:*** Motion that the Board will not support the school owners' proposed amendment to ACJA § 7-205(E)(1)(s).

***Motion Proposals:*** First Elaine Acosta Sweet  
Second Judge Gary LaFleur

***Motion Results:*** Passed

***2. INSTRUCTOR CERTIFICATION***

***Proposal from Judge Norman Davis, Presiding Judge of the Superior Court in Maricopa County for an amendment to ACJA § 7-205(E)(2)(g)***

2. Eligibility for Certification as an Instructor. In addition to the requirements of ACJA § 7-201(E), for qualification as an instructor, an instructor shall:

...

- g. If the applicant is currently serving as an active law enforcement officer where any portion of their duties includes the authority to issue citations, the applicant may submit a completed application only if the applicant has obtained a waiver from the presiding judge of the superior court in the county where the applicant is instructing, allowing the officer to serve as an instructor.

- i. The applicant shall use the application for waiver form provided by the AOC and shall complete the following information on the form:
  - 1. Description of the officer's position and duties and, if the officer's position includes the authority to issue citations, the number of citations the officer issued in the past twelve months;
  - 2. The jurisdiction where the officer intends to serve as a defensive driving instructor and whether that conflicts with the jurisdiction where the applicant serves as a law enforcement officer;
  - 3. An acknowledgement by the officer that the officer, if certified as an instructor, may not refer to the officer's employment as a law enforcement officer when teaching a defensive driving class;
  - 4. An acknowledgement by the officer that if the officer's responsibilities change such that the officer is routinely issuing citations, the officer will notify the presiding judge within ten days.
  
- j. The presiding judge will consider all of the factors identified in subsection (f)(a) when considering the request for waiver and may grant or deny the request.

**Discussion:** Nancy Swetnam presented Judge Davis' proposed amendment to ACJA § 7-205(E)(2)(g).

**Motion:** Motion that the Board support the language drafted on the request of Judge Davis concerning police officers who want to also serve as defensive driving instructors (subsection i above).

**Motion Proposals:** First Elaine Acosta Sweet  
 Second Lynette Rudow

**Motion Results:** Passed

G. Renewal of Certification. In addition to the requirements of ACJA § 7-201(G), the following requirements apply:

...

- 1. Instructors. All instructors shall:
  - b. Teach a minimum of ~~eight~~ (xxx) classes in the 24 months of each renewal cycle. An instructor whose certificate expires less than one year from the effective date of certification shall teach on a pro-rated basis at the rate of at least one class for every two months the instructor has been certified. The employing or contracted

school shall maintain records of classes taught for each employed or contracted instructor and shall provide the records on request of division staff or the board.

**Discussion:** Nancy Swetnam presented the AOC staff proposed amendment to ACJA § 7-201(G)(1)(b).

**Motion:** Motion that the Board support the Subcommittee motion and strike the requirement that an instructor teach a minimum number of classes per year.

**Motion Proposals:** First Elaine Acosta Sweet  
Second William Pachnowski

**Motion Results:** Passed

### 3. SCHOOL FEES

**Proposal from AOC staff for an amendment to ACJA § 7-205(F)(5)(k) and 7-205(F)(5)(l) with a provision from school owners regarding prohibition vs. add-on fees.**

F. Role and Responsibilities of Certificate Holders. In addition to the requirements of ACJA § 7-201(F), each school shall:

k. Provide the total school fee to attend the school's course in any and all information or materials provided to students, including the school's website. This total fee must be inclusive of all fees and costs assessed and retained by the school for the student to attend and complete the school's course. The school shall provide the student with the total school fee prior to the student beginning the registration and the school shall not require the student to complete registration steps before providing the total school fee. The school shall provide the total school fee information in a conspicuous area on the first page of the school's Arizona web site and on published materials in a manner that is readily noticeable to the public and that is in accordance with the format specified by the AOC for all schools. A school shall not add on additional fees

l. A defensive driving school shall post on the opening page or opening Arizona page of their internet website the following information:

(1) The table, in the format as specified by the AOC, which specifies the following information: total cost to attend defensive driving for diversion;

- (a) The school's total fee to attend reflecting all fees the school may charge for the student to attend and complete the course and processing of the completion to the court;
  - (b) The State fee;
  - (c) The State surcharge;
  - (d) A link to an additional web page that identifies the court diversion fee for the court where the student received the citation or the specific diversion fee for each court
  - (e) That the total cost for the student to attend the school is the total of the school fee, state fee, state surcharge plus the court diversion fee.
- ~~(2) The schools' total fee to attend reflecting all fees the school may charge;~~
  - ~~(3) The court diversion fee;~~
  - ~~(4) The State surcharge;~~
  - ~~(5) The State fee;~~
  - (6) The eligibility requirements to attend a defensive driving school;
  - (7) The instruction that a student must complete the course 7 days prior to their arraignment date;
  - (8) The violations eligible for defensive driving diversion or a link to the Supreme Court website listing eligible violations;
  - (9) A list of the information required for course registration:
    - (a) Traffic citation;
    - (b) Government issued identification;
    - (c) Payment to be made prior to the start of class or program;
  - (10) The class or program instructional times;
  - (11) School refund policy; and
  - (12) Link to the Supreme Court's website and toll-free telephone number to further assist the public.

**Discussion:** Nancy Swetnam presented the AOC staff proposed amendment to ACJA § 7-205(F)(5)(k) and 7-205(F)(5)(l).

***Board suggested alternative language to proposal:***

“shall post on the opening page, etc. the total fees and charges in the format specified by the AOC, which shall include the following information...”

“...the school's total fee to attend reflecting all fees and charges for a student to attend to complete the course and processing of the completion to the court.”

***Staff suggested addition to proposed amendment:***

All schools be prohibited from requiring a student to register before they can see the school fee.

School can charge an “optional certificate fee.”

***Proposal from school owners for an amendment to ACJA § 7-205(F)(5)(n)***

n. AOC staff shall notify a school in writing if a school’s website and available information is not in compliance with the fee requirements in subsections (n) and (m). The school shall have five days to correct the noncompliance. Failure by the school to correct the noncompliance shall result in a six month suspension of the school’s certification.

***Discussion:*** Nancy Swetnam presented a proposal from school owners for an amendment to ACJA § 7-205(F)(5)(n).

***Motion:*** Motion that the Board not support the school owner proposal regarding website non-compliance.

***Motion Proposals:*** First Elaine Acosta Sweet  
Second Lynette Rudow

***Motion Results:*** Passed

***Proposal from school owners for an amendment to ACJA § 7-205(J)(1)(b)(3)***

1. Schools. This code of conduct is adopted by the supreme court to apply to all schools certified by the Arizona Supreme Court, pursuant to A.R.S. § 28-3395. The purpose of this code of conduct is to establish minimum standards of performance for schools.

b. Ethics. A school shall not operate in a manner reflecting adversely on the judiciary, board, courts, division staff or other agencies involved in the administration of justice including law enforcement agencies and attorneys.

...

(3) A school shall not use the Arizona Supreme Court logo or any other court logo on any of the school materials or in any way imply that the Arizona Supreme Court or any other Arizona court favors or is recommending a particular certified school. A certified school may provide information to the public that the school is certified by the

Arizona Supreme Court, utilizing only the name the school associated with the active and valid certification of the school.

**Discussion:** Nancy Swetnam presented the school owner proposed amendment to ACJA § 7-205(J)(1)(b)(3).

***Proposal from school owners for an amendment to ACJA § 7-205(J)(1)(e)***

e. Advertising. A school shall not permit any erroneous, deceptive or misleading advertising by omission, material misrepresentation, dishonesty or fraud. A school shall not imply attendance at the school is free or that the school is recommended or preferred by the Arizona Supreme Court or any other Arizona court. A school shall not permit advertising during the presentation of its approved course. A school shall not provide any endorsements, rewards, or incentives to a student in order to:

- (1) Receive reduced costs to attend the school’s course by responding to an advertisement or taking a survey provided by the advertiser or school;
- (2) Waive any costs or fees to attend the course;
- (3) Misrepresent the costs to attend the course; or
- (4) Misrepresent other schools’ course offerings.

**Discussion:** Nancy Swetnam presented the school owner proposal for an amendment to ACJA § 7-205(J)(1)(e) with a recommendation from the Subcommittee that the word “imply” in paragraph (e) be replaced with the word “represent.”

**Motion:** Motion that the Board support the language as proposed in subsection (3) and also in section (e) with the change as the Subcommittee recommends to replace the word “imply” with “represent.”

**Motion Proposals:** First Elaine Acosta Sweet  
Second Daniel Edwards

**Motion Results:** Passed

**4. CERTIFICATION FEES**

***Proposal from school owners for an amendment to ACJA § 7-205(K)***

**K. Fee Schedule.**

1. Initial School Certification Fees for Two Year Period.

Fee

(Fee applies to each additional course delivery method utilized by a school)

a. ~~Application year 2011:~~

~~(1) Certification expiring more than one year after application date \$ 3000.00~~

~~(2) Certification expiring less than one year after application date \$ 1500.00~~

b. Application year 2012 and after:

~~(1) Initial Certification expiring more than one year after application date~~

~~\$15000.00~~ 4000.00

~~(2) Certification expiring less than one year after application date \$ 2000.00~~

c. ~~Application year 2013 and after:~~

~~(1) Certification expiring more than one year after application date 5000.00~~

~~(2) Certification expiring less than one year after application date \$ 2500.00~~

2. Initial Instructor Certification Fees for Two Year Period.

a. Initial Certification expiring more than one year after application date \$50.00

b. Certification expiring less than one year after application date \$ 25.00

**Discussion:** Nancy Swetnam presented the school owners' proposal for an amendment to ACJA § 7-205(K).

**Proposal from AOC staff for an amendment to ACJA § 7-205(K)(4)**

4. Renewal Certification Fees for Two Year Period.

a. School renewal

(1) ~~Renewal year 2011:~~

Renewal fee for all schools \$ ~~500.00~~

(2) Renewal year 2013:

Renewal fee for all schools. Fee is per modality. \$ 750.00  
\$2000.00

(3) Renewal year 2015 and after:

Renewal fee for all schools. Fee is per modality. \$1000.00  
\$2750.00

**Discussion:** Nancy Swetnam presented the AOC staff proposal for an amendment to ACJA § 7-205(K)(4).

***Board suggested amendments to proposal:***

In section (a) we either need to say “implementation of an additional modality and/or curriculum” or list another \$2,000.00 fee for an additional teenage driver curriculum; list a separate one.

***Proposal from AOC staff for an amendment to ACJA § 7-205(K)(5)***

5. Miscellaneous Fees.

...

d. Reinstatement application \$ 100.00  
\$ 1000.00

(Application for reinstatement to certification after suspension or revocation of certification. This fee is paid in addition to the application fee for certification.)

**Discussion:** Nancy Swetnam presented the AOC staff proposal for an amendment to ACJA § 7-205(K)(5).

**Motion:** The Board adopts the removal of fee staggering on the initial application fee only, that they adopt the reinstatement fee and that language be added to include implementation of an additional curriculum fee of \$2,000.00 per modality.

**Motion Proposals:** First Elaine Acosta Sweet  
Second Thomas Davis

**Motion Results:** Passed

## **5. ELIGIBILITY FOR DEFENSIVE DRIVING ATTENDANCE**

### ***Proposal from school owners for an amendment to A.R.S. § 28-3392***

B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within ~~twenty-four~~ eighteen {*alternative option: twelve*} months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

**Discussion:** Nancy Swetnam presented the school owner proposal for an amendment to A.R.S. § 28-3392.

**Motion:** Motion to approve the subcommittee suggestion that the Board does not support a rule change at this time.

**Motion Proposals:** First Elaine Acosta Sweet  
Second Daniel Edwards

**Motion Results:** Passed

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## **CALL TO THE PUBLIC**

**Individuals Addressing the Board:** Elaine Acosta Sweet, Nancy Swetnam,  
Craig Cupper (NTSI)

**Discussion:** Mr. Cupper gave a presentation regarding his concerns about the program's effectiveness and his belief that there should be a temporary moratorium until the issues are resolved.

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## **ADJOURNMENT**

**Motion:** Motion to adjourn.

**Motion Proposals:** First Gordon Fox  
Second William Pachnowski

*Motion Results:* Passed

*Time:* 1:25 P.M.

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