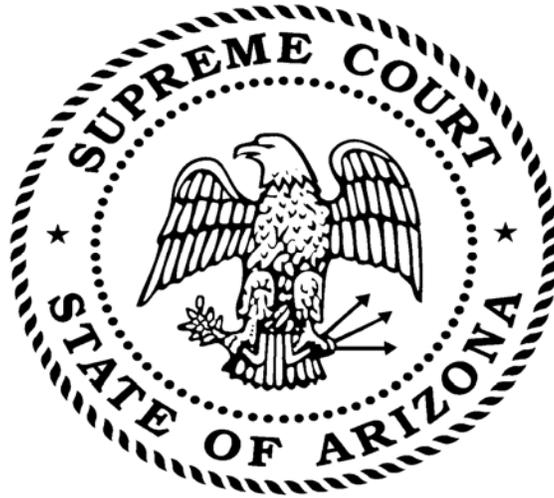


ARIZONA SUPREME COURT
Administrative Office of the Courts
Certification and Licensing Division



DEFENSIVE DRIVING INSTRUCTOR

CANDIDATE STUDY GUIDE

Defensive Driving Program
1501 West Washington, Suite 104
Phoenix, AZ 85007-3231

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1. INTRODUCTION

AUTHORITY	Arizona Revised Statutes, Title 28 § 28-3391 through 3399 and Arizona Code of Judicial Administration (ACJA) § 7-201 and § 7-205 establish the authority for administration of the Defensive Driver 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 § 7-205 defines instructors as persons who are certified pursuant to ACJA § 7-201 (E) and conduct defensive driving courses for a certified school. In the case of alternative delivery methods, where an instructor is not present, the instructor serves as the certified school’s point of contact to answer student questions by telephone or electronic means. “Instructional time” means the time spent presenting the school’s approved curriculum. Instructional time does not include breaks, registration, audiovisual set-up, technical breakdown or assistance, or time devoted to other administrative functions.
REQUIREMENT FOR EXAMINATION	All candidates for certification as a defensive driving instructor shall successfully pass a certification examination testing the applicant’s knowledge, skills and abilities as an instructor. ACJA § 7-201 and § 7-205 do not provide for any waiver of the examination. All potential candidates for certification must take and pass the examination in order to be eligible to apply for certification.
PURPOSE OF THIS HANDBOOK	The purpose of this handbook is to provide candidates with detailed information about the examination for certification as a defensive driving instructor. 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 written knowledge examination, submit a completed application for certification and possess the education or experience as outlined in ACJA § 7-201 and § 7-205.
CONFIRMATION OF ELIGIBILITY	<p>Potential applicants for defensive driving instructor certification must possess and demonstrate one or more of the qualifications to sit for the exam illustrated by ACJA § 7-205. AJCA § 7-205 and instructions for registering to participate in the examination are available for candidate review on the Program website at www.azcourts.gov/drive .</p> <p>Available seats for the examination are filled on a first-come, first-come, first-serve basis. Examination staff reserves the right to limit the number of seats available at each administration. All candidates who fail to appear for a scheduled examination will be assessed a fee as prescribed by ACJA § 7-205.</p>
FEES	The fee for participating in the examination is \$50.00. If it becomes necessary for an applicant to retake the examination, the fee is \$50.00. If a candidate registers for the exam and fails to appear as scheduled, the candidate will be assessed a \$50.00 re-registration fee.
SPECIAL ACCOMMODATIONS	<p>Requests for special accommodations in accordance with the Americans with Disabilities Act of 1990 must be submitted to the Certification and Licensing Division with substantiating documentation.</p> <p>Requests must include a description of the nature of the disability and limitations related to the examination, the type of accommodation(s) requested and verification from a qualified professional. The qualified professional must have special expertise to evaluate the existence of the disability and proposed accommodations needed for the specific disability. Requests are reviewed and granted on an individual basis.</p>

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, are responsible for managing their own time.
FORMAT	<p>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.</p> <p>The multiple-choice questions cover subject matter areas related to the provision of services as a defensive driving instructor (see Content Specifications, Section 4). The questions are designed to demonstrate candidates possess the basic knowledge, skills, and abilities to provide defensive driving instructor services.</p>
PASSING SCORE	<p>The passing score is the score that a candidate must achieve in order to pass the examination and qualify for certification as a certified defensive driving instructor in Arizona.</p> <p>The passing score for the examination is a scaled 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.</p>

4. CONTENT SPECIFICATIONS

CONTENT AREAS

The content for the examination was developed by a focus group of defensive driving instructors from representative practice settings in January 2011. 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 15%, there would be 15 questions on a 100-item examination. There are three content areas outlined in the content specifications:

- I. Administrative responsibilities (15%)
- II. Ethics (30%)
- III. Classroom instruction (55%)

The above specified percentages of content area questions will be randomly ordered on the examination. For example, questions on classroom instruction will not 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. If a hearing is requested, within how many days must a hearing take place?
 - A. 30 days
 - B. 45 days
 - C. 60 days
 - D. 90 days

2. At the conclusion of class, a student offers concert tickets to the instructor free of charge. Can the instructor accept the tickets, and why?
 - A. No; the instructor cannot accept the tickets because there is the appearance of a conflict
 - B. No; the tickets were not offered to all instructors in the school
 - C. Yes; the instructor can accept the tickets if the value of the tickets is under \$100
 - D. Yes; the instructor can accept the tickets so long as the instructor offers to pay the cash value

3. What is the minimum distance that should be kept between a motorist's vehicle and a passing police vehicle which has flashing lights and sirens?
 - A. 200 feet
 - B. 250 feet
 - C. 300 feet
 - D. 350 feet

ANSWERS: C, A, C

6. EXAMINATION POLICIES AND PROCEDURES

EXAMINATION SECURITY	<p>Candidates cannot receive any unauthorized assistance during the examination, including but not limited to any of the following:</p> <ul style="list-style-type: none">• 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 for the purpose of selling, distributing, buying, receiving, or having unauthorized possession of any portion of the examination;• 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. <p>Any candidate who violates examination security policies is subject to denial of certification pursuant to ACJA §§ 7-201 and 7-205.</p>
ARRIVAL AT THE EXAMINATION	<p>On the day of the examination, the candidate must arrive at the designated examination site no later than the established registration time.</p>
TARDINESS	<p>An examination will not be disrupted to accommodate late arrivals. If a candidate reports late, the candidate will not be permitted to take the examination and will be required to pay prescribed fees for later participation.</p>
REGISTRATION	<p>The candidate <u>must</u> 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.</p> <p>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.</p>
NO SHOW POLICY	<p>If a candidate fails to show up for the examination, the candidate must re-register for the examination and pay the applicable fees.</p>
MATERIALS TO BRING	<p>Other than photographic identification, the candidate will be provided with all material necessary to participate in the examination process.</p>
PROHIBITED	<p>Candidates cannot bring communication devices, reference materials,</p>

MATERIALS	<p>photographic equipment or electronic devices into the examination room. The following items are examples of prohibited materials:</p> <ul style="list-style-type: none"> • Cellular phones and pagers • Candidate handbooks, technical reference books and dictionaries • Cameras and videographic recorders • Radios and tape recorders • Laptop computers • Programmable electronic organizers, personal digital assistants (PDAs) • Drinks and food
PERSONAL BELONGINGS	<p>Candidates may keep keys, wallets and purses on the floor near their seat 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.</p> <p>Examination staff will <u>not</u> be responsible for monitoring candidates' personal items during the examination. If a candidate reports prohibited materials or belongings the candidate will be asked to make alternative arrangements before you start the examination.</p> <p>If securing belongings results in the candidate being late for the examination, the candidate will not be permitted to take the examination and will need to reschedule and submit any applicable fees.</p>
CHECK-OUT PROCEDURE	<p>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.</p>
DISRUPTIVE BEHAVIOR	<p>Candidates who engage in behavior that is disruptive to other candidates will be disqualified from the examination process.</p> <p>Examples of disruptive behavior during the examination include:</p> <ul style="list-style-type: none"> • Eating and drinking during the examination; • Allowing the alarm features of programmable wristwatches or other timepieces to emit sound; or • Talking, whispering, or otherwise attempting to communicate with other candidates for any reason.
LEAVING THE ROOM DURING THE EXAMINATION	<p>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.</p>

7. EXAMINATION RESULTS

NOTIFICATION OF RESULTS Examination results will be sent to each candidate by mail at the address on file with the Division within thirty (30) days of completion of the examination. Do NOT call the Certification and Licensing Division or make inquiries by email or in person requesting examination results. Examination results will NOT be released to third parties.

RE-EXAMINATION A candidate who fails to pass the written examination may retake the examination two times under the following conditions:

- The candidate is not disqualified from retaking the examination for fraud, dishonesty, or corruption while taking the examination,
- The candidate sends a written request to retake the examination within 30 days of the date of receipt of the examination results,
- The candidate takes the reexamination within 90 days of the date of the notice of the examination results.

Pursuant to ACJA § 7-201, a candidate who has taken and failed the examination three times shall not be allowed to take a further examination unless the Defensive Driving Board grants special permission for the candidate to take another examination. The candidate must submit a written request stating the additional study and preparation the candidate has completed to qualify for an additional examination.

8. REFERENCES

The following list of references provides a complete and comprehensive list of the references related to the examination questions. There are no references listed that are not reflected in the questions which may be present on the examination. All cited references refer to the version of the reference as of January 2007. Any amendments adopted to the references after January 2011 will not be included in the examination. Every reference you will need to be familiar with for the purpose of the examination is contained in Section 9 of this study guide.

1. ACJA § 7-201 (E)(1) and (E)(2)
2. ACJA § 7-201 (F)(2), (F)(5) and (F)(6)
3. ACJA § 7-201 (G)(3) and (G)(4)
4. ACJA § 7-201 (H)(15) and (H)(23)
5. ACJA § 7-205 (E), (F), (G), (J) and (M)
6. Defensive Driving Program Continuing Education Policy
7. ARS § 28-695
8. ARS § 28-701
9. ARS § 28-724
10. ARS § 28-726 (A)(2)
11. ARS § 28-775 (A) through (E)
12. ARS § 28-776 (A)
13. ARS § 28-792
14. ARS § 28-793
15. ARS § 28-794
16. ARS § 28-797 (E)
17. ARS § 28-854
18. ARS § 29-856
19. ARS § 28-857
20. ARS § 28-857.01
21. ARS § 28-909 (A) and (B)
22. ARS § 28-1321
23. ARS § 28-1381 (A)
24. ARS § 28-1382 (A) and (B)
25. ARS § 28-3392
26. ARS § 28-3395(B)
27. Arizona Driver License Manual (and Customer Service Guide)
<http://www.azdot.gov/mvd/MenuFormsandPubs.asp>

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)(24), 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
 - a. (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. Willful violation of or willful noncompliance with an order of the director regarding the audit, or willful 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 non-certificate 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. All certificates shall continue in force until expired, voluntarily surrendered, placed on inactive status, suspended or revoked.
 - a. When a certificate holder has filed a timely and complete application for the renewal of certification, the existing certification does not expire until the administrative process for review of the renewal application has been completed.
 - b. 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.
 - c. If the renewal application is denied, the existing certification does not expire until the last day for seeking a hearing on the decision to deny, 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 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.
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.
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 boards 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.
- d. Quorum. The board shall have a quorum for all official actions. A quorum consists of a majority of the board.

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
§ 7-205: Defensive Driving

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

“Additional modality application fee” means the fee imposed for certifying each additional course delivery method utilized by a school that offers more than one mode of delivery, as specified in § 7-205(K)(4).

“Affirmation of eligibility” means a form an offender signs affirming the offender’s eligibility to attend a defensive driving course.

“Alternative delivery method (ADM)” means a defensive driving course other than a live classroom presentation by an instructor.

“Attend” means to participate in a defensive driving course, whether at a classroom site, or using the materials for an ADM course.

“Batch processing” means the method by which multiple student records are transmitted to the defensive driving database as one group.

“Bond card” means a court’s civil sanction schedule providing contact information for defensive driving schools.

“Class schedule directory” means a complete listing of a school’s defensive driving courses for a specified advance period of time including instructor name, time of courses, date and location.

“Complete” means to begin and successfully fulfill all requirements of a defensive driving course.

“Completion certificate” means a document that may be issued by a school to an individual who has successfully completed a defensive driving course.

“Continuance” means the extension of the scheduled court arraignment date for an individual, pursuant to court order or an administrative order issued by the presiding judge.

“Course demonstration” means a presentation of an applicant school’s complete curriculum including all ADM options.

“Course participation questions” means the set of queries asked of a student to determine if the student is the person registered for the course and participating in the ADM course.

“Court” means, pursuant to A.R.S. § 28-3391, “... unless the context otherwise requires, ... a juvenile division of the superior court, a justice of the peace court or a municipal court.”

“Court automation requirements” means the minimum capabilities necessary to electronically transmit student completion records and fund transfers to the court of jurisdiction.

“Court reporting requirements” means the method and minimum amount of information needed by a court of jurisdiction to adjudicate a citation.

“Curriculum” means a detailed written outline of the defensive driving course or lesson plan, films or audiovisual materials and any written materials the school intends to use to supplement the presentation.

“Days” unless otherwise defined, means calendar days.

“Defensive driving course” means an educational and behavior modification presentation designed to teach safe driving practices and attitudes used for the purpose of court diversion or as an element of a sentence.

“Defensive driving database” means the database instituted pursuant to A.R.S. § 28-3395(B)(3) for the purpose of recording all individual completions of defensive driving courses for court diversion programs and court orders.

“Eligible individual” means person cited for a moving traffic violation, who qualifies for diversion under A.R.S. § 28-3392(A)(1) or (A)(2).

“Identity verification questions” means the queries made throughout an ADM course presentation for personal information from the student participating in the course.

“Instructional time” means the time spent presenting the school’s approved curriculum. Instructional time does not include breaks, registration, audiovisual set-up, technical breakdown or assistance, or time devoted to other administrative functions.

“Instructor” means a person who is certified pursuant to ACJA § 7-201(E) and this section to conduct defensive driving courses for a school.

“Instructor seminar” means the course of study a school presents to an applicant for certification as an instructor prior to the submission of the individual’s application for certification or an instructor prior to the instructor conducting a course for the school.

“Multi-purpose agency” means an entity which conducts other traffic related classes, or conducts other activities, services or sales in addition to and apart from its court diversion business.

“Negative state fee report” means a standard form submitted in lieu of payment of state fees and completion reports when no students completed a school’s defensive driving course during a reporting period and therefore, no state fees are due.

“On-line processing” means a school submits student records to the defensive driving database through direct access, one record at a time.

“Owner” means any individual or entity that holds a beneficial interest in a defensive driving school.

“Primary-provider” means a school which has entered into a contract with a court or courts to provide defensive driving courses for court diversion and its related activities.

“Remittance report” means a detailed statement of an individual student’s court diversion or state fees attached to the disbursement check for any court or the AOC.

“Reporting period” means the two periods of the month set forth for receipt of payments and remittance reports.

“Restricted certificate” means permission granted to a school owner or principal to present defensive driving courses.

“School” means an entity certified pursuant to ACJA § 7-201(E) and this section to provide an educational defensive driving course designed to teach safe driving practices and attitudes.

“School fee” means the total amount, including all fees, charged to each student by a school for attending a defensive driving course and retained by the school for its services.

“Serious physical injury” means “physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb” as provided by A.R.S. § 13-105(38).

“State fee” means the amount mandated by A.R.S. §§ 28-3397(A) and 12-114(A) collected by a school from each individual who begins a defensive driving course for diversion, or by an order of a court.

“State fiscal year” means the state business year from July 1 to June 30.

“State surcharge” means the amount mandated by A.R.S. § 28-3396 (A)(2) collected by a school from each individual who begins a defensive driving course and transmitted to the state treasurer for deposit in the state general fund.

B. Applicability. This section applies to the certification of schools and instructors and the use of schools by the courts, pursuant to A.R.S. §§ 28-3391 through -3399. This section is read in conjunction with ACJA § 7-201: General Requirements. In the event of a conflict between this section and ACJA § 7-201, the provisions of this section shall govern. This section does not apply to educational providers established pursuant to other statutes mandating or governing educational programs administered by other agencies except where these providers also maintain certification as a school.

C. Purpose. This section is intended to result in the effective administration of the defensive driving program and in certification of schools and instructors for performance of responsibilities in a professional and competent manner, for the protection of the public in accordance with all applicable statutes, ACJA § 7-201 and this section.

D. Administration. In addition to the requirements of ACJA § 7-201(D), the following requirements apply:

1. Pursuant to A.R.S. § 28-3395(B), the Supreme Court shall:
 1. Supervise the use of defensive driving schools by the courts in this state.
 2. Make public the amount of the court diversion fee assessed by each court in this state . . . and the total cost to attend a defensive driving school in each court.
 3. Establish an automated statewide data base for keeping a record of persons who attend a defensive driving school.
 4. Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts.
 5. Establish procedures for courts and schools to remit reports that are required by the supreme court.
 6. Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion program.
2. Role and Responsibilities of the Director. In addition to the requirements of ACJA § 7-201(D), the director may require the inclusion of specific provisions in any contracts written between courts and providers of defensive driving courses to ensure compliance with ACJA § 7-201 and this section.
3. Role and Responsibilities of the Deputy Director. These responsibilities are contained in ACJA § 7-201(D)(3).

4. Role and Responsibilities of Division Staff. In addition to the requirements of ACJA § 7-201(D)(4), division staff shall:
 - a. Review and make recommendations, in writing when necessary, to an applicant school regarding the applicant's:
 - (1) Affirmation of eligibility;
 - (2) Fee refund policy;
 - (3) Defensive driving course evaluation form;
 - (4) Completion certificate and/or receipting;
 - (5) Instructor training seminar;
 - (6) Administrative manual;
 - (7) Operational manual;
 - (8) Financial procedures manual;
 - (9) Third - party contracts involving direct delivery of defensive driving services to the public or any duties normally performed by the school;
 - (10) Capability of operating as a batch or on-line school;
 - (11) Course curriculum;
 - (12) Course participation questions; and
 - (13) Identity verification questions and processes.
 - b. In conducting the review of an applicant school and making recommendations to an applicant:
 - (1) Review curriculum to determine if the curriculum complies with applicable law, court rules and ACJA §§ 7-201 and -205; and
 - (2) Utilize the supreme court's minimum accounting standards as a basis for any financial procedures.
 - c. Conduct a review of the applicant school's course and curriculum by:
 - (1) Setting a time and location for the applicant to present its defensive driving course in its entirety with all elements and intended formats as proposed in the curriculum;
 - (2) Noting deficiencies in the course based on the minimum standards pursuant to subsections (E)(1)(k)(1) through (5) and provide the applicant a written summary of the deficiencies;
 - (3) Providing a copy of the curriculum evaluation to the applicant; and
 - (4) Setting a time and location for the applicant to provide a second demonstration of the course if the applicant's deficiencies are numerous.
 - d. Conduct tests of the applicant school's hardware and software to verify the applicant school has:
 - (1) The necessary equipment to access the defensive driving database and maintain the connection for remittance of information;
 - (2) Staff with the expertise to maintain the connection for remittance of information;
 - (3) The necessary equipment to comply with court automation and reporting requirements and fund transfers; and
 - (4) A secure web site.

- e. Administer the examination required pursuant to this section and ACJA § 7-201(E)(1)(f) by offering the examination a minimum of four times per calendar year, no less than once every three months.
 - f. Conduct training in the defensive driving database for the applicant school's designated principal upon certification.
 - g. Conduct, in conjunction with the schools, six hours of continuing education for instructors every calendar year in the two year renewal cycle for a total of twelve hours.
 - h. Implement a monitoring program including conducting compliance audits of certified schools and instructors.
5. Role and Responsibilities of the Board. In addition to the requirements of ACJA § 7-201(D), the following requirements apply:
- a. The Defensive Driving Board is established pursuant to ACJA § 7-201(D), comprised of the following eleven members:
 - (1) Two certified instructors who have worked as a certified instructor for at least five years;
 - (2) One judge from a limited jurisdiction court;
 - (3) Two court administrators from limited jurisdiction courts;
 - (4) Three owners, principal officers or administrators of a classroom or ADM school who have owned the school or been a business partner in Arizona for at least two years;
 - (5) Two public members; and
 - (6) One additional member appointed by the chief justice.
 - b. Duties of the Board. In addition to the responsibilities contained in ACJA § 7-201(D), the board:
 - (1) Shall, pursuant to A.R.S. § 28-3393 and subsection (D)(6)(e)(3), review a request from a court for approval of the court's automation, reporting and fund transfer requirements. In conducting this review the board shall:
 - (a) Develop and distribute a request form for the courts to complete and submit;
 - (b) Conduct the review during a regularly scheduled meeting of the board;
 - (c) Base its review of the court's request for approval on the statewide standards adopted by the Supreme Court for electronic reporting of defensive driving school registration and completion information;
 - (d) Review the stated reasons why the court's needs cannot be met through the statewide standards;
 - (e) Make a written decision either approving or denying the court's request. The board may grant an exception to the adopted standards only under the following circumstances:
 - (i) The court's case management system currently receives defensive driving completion information from the defensive driving schools in a manner

that electronically receipts the associated court diversion fees to each individual case; or

- (ii) A non-AZTEC court can demonstrate it needs additional time or cannot make the programming changes necessary to accept the defensive driving XML messages distributed by MQ series for integration into its case management system.
 - (f) If the board grants an exception, the board shall review the court's requirements one year after the approval. At the review, the board shall again consider the statewide automation standards and the court's needs and may either reauthorize the approval for another one year period or rescind the approval; and
 - (g) Request division staff post the list of courts and approved automation and reporting requirements on the website for distribution to the schools and public.
- (2) May authorize restoration of eligibility for a student pursuant to subsection (F)(27)(g).

6. Role and Responsibilities of the Superior and Limited Jurisdiction Courts.

- a. The presiding judge of the superior court shall supervise the use of defensive driving schools by the municipal and justice of the peace courts in the county in compliance with A.R.S. §§ 28-3391 – 3399 and ACJA § 7-205.
- b. The presiding judge of the superior court shall not permit any court official or employee to accept, either directly or indirectly, any compensation or incentive to use a specific school.
- c. The presiding judge of the justice, juvenile or municipal court shall:
 - (1) Subject to the approval of the presiding judge of the superior court, set a single diversion fee for an eligible offender attending a defensive driving course;
 - (2) Assess a diversion fee in lieu of a civil penalty or order a fine, but not both;
 - (3) Notify the supreme court in writing by September 1 for changes effective October 1 and March 1 for changes effective April 1 of the court's diversion fees pursuant to subsection (D)(6)(c)(1);
 - (4) Effective January 1, 2009, implement the provisions of A.R.S. § 28-3393:
 - A. Except as provided in subsection B, an eligible individual who elects to attend a defensive driving school shall attend one of the following within the time allowed by the court:
 - 1. A defensive driving school that is certified by the supreme court and complies with the court automation and reporting requirements pursuant to subsections B and C.
 - 2. On application to the court and on the showing of reasonable justification by the individual, another supreme court certified defensive driving school. Reasonable justification includes the fact that the individual resides in

another area and that attendance at any of the defensive driving schools that comply with the court automation and reporting requirements creates a hardship on the individual.

- B. On the expiration of all contracts that are in existence on July 1, 2007, between the court and a defensive driving school provider, an eligible individual who elects to attend a defensive driving school may attend any supreme court certified defensive driving school that complies with the court automation and reporting requirements. For the purposes of this subsection, the renewal of any contract between a court and a defensive driving school after July 1, 2007, shall be considered a new contract.
 - C. A court may adopt requirements for a school to electronically report school completions and to transfer funds, subject to the approval of the defensive driving board.
 - D. A law enforcement officer or a jurisdiction issuing a civil traffic citation to an individual shall provide notice to the individual that if eligible, the individual may attend any supreme court certified defensive driving school subject to subsection B.
 - E. A court shall not promote or favor any supreme court certified defensive driving school over another, except that the notice provided pursuant to subsection D may exclude a school that does not comply with the court's automation and reporting requirements pursuant to subsections B and C.
- (5) Have services provided only by a school certified by the Supreme Court;
 - (6) Have a written contract with each primary provider and upon the expiration or cancellation of each primary provider contract in existence on July 1, 2007, notify the division staff of the expiration or cancellation of the contract;
 - (7) Provide a person with a written court order specifying the violation date, citation and any special conditions if a judge orders a person to attend a school other than as diversion. The order shall include the fine if the court fines a person for the violation;
 - (8) Pursuant to A.R.S. § 28-3392(A)(1), provide division staff with an update of the local ordinances eligible for diversion two times per year;
 - (9) Accept notification of an eligible offender's completion of a defensive driving course only from a certified school;
 - (10) Pursuant to ACJA § 7-201(H)(1), notify division staff regarding any acts of misconduct or violations of the statutes, ACJA § 7-201, this section or court rules by a certified school or instructor;
 - (11) Designate court staff to:
 - (a) Oversee the method of providing bond card information for traffic citations and ensure it contains the following:
 - (i) A statement indicating an offender, if eligible to attend a defensive driving course for diversion, may attend only a supreme court certified school;

- (ii) The internet address for the AOC's website containing the list of Supreme Court schools an offender may attend;
 - (iii) The AOC's toll free telephone number for access of information regarding supreme court schools an offender may attend, for offenders without access to the Website; and
 - (iv) A statement the offender shall complete the course at least seven days prior to the court arraignment day;
 - (b) Correct registration or completion records within three business days of system notice or discovery.
- d. The presiding judge of the justice, juvenile or municipal court shall not:
 - (1) Order any ineligible offender to attend a diversion program for dismissal of a violation;
 - (2) Permit any court official or employee to accept, either directly or indirectly, any compensation or incentive to enroll any person in any school;
 - (3) Except as provided in subsection (D)(6)(e)(4), permit school personnel to perform any judicial or court staff functions;
 - (4) Permit school personnel direct access to court records other than read only access to electronic records;
 - (5) Permit school personnel access to areas within the court not normally accessible to the public; and
- e. The presiding judge of each justice, juvenile and municipal court, subject to the approval of the presiding judge of the superior court, may:
 - (1) Change the court diversion fee up to two times each year, effective either on April 1 or October 1, or on both dates. A court shall notify division staff by March 1st for the April 1st effective date and by September 1st for the October 1st effective date of the court diversion fee to be assessed for each six-month period. This notice shall be filed regardless of whether the court changes the fee or retains the current fee, using the form provided by division staff. A notice of a change in a court diversion fee that is received after March 1st for the April 1st effective date, or after September 1st for the October 1st effective date, will not take effect on April 1st or October 1st, respectively, but will be delayed six months until the next change date. Citations and violations issued prior to the effective date of the change in the diversion fee shall be charged under the amount in effect on the date of violation; and
 - (2) Waive the court diversion fee assessed an individual attending a defensive driving course.
 - (3) Pursuant to A.R.S. § 28-3393(C) and subsection (D)(5)(b), prepare and submit a written request to the board for review and approval of the court's automation and reporting requirements. This request shall be submitted on a form provided by the board and shall identify the specific automation and reporting requirements of the court and why these requirements are different from the statewide automation standards adopted by the supreme court for the transmission of defensive driving information. If the board approves the court's automation and reporting requirements, the presiding judge shall allow eligible offenders to attend any

school the board has determined meets the court's approved automation and reporting requirements.

- (4) Issue an administrative order, authorizing schools to grant continuances to students under specified conditions. If the presiding judge issues an administrative order, the presiding judge shall provide a copy of the administrative order to the AOC within five days and the AOC shall provide this information to the schools. The administrative order shall:
 - (a) Authorize all schools to grant continuances and will not limit this authority only to specified schools;
 - (b) Authorize schools to grant continuances in all cases and will not permit schools to decide whether to grant a continuance on a case by case basis;
 - (c) Specify that certified schools may grant only one continuance per case and the number of days for a continuance;
 - (d) Specify that a continuance applies to the court arraignment date and if a continuance is granted, the student shall complete the defensive driving course at least seven days prior to the new court arraignment date;
 - (e) Specify that certified schools may not grant a continuance if the request is less than seven days prior to the arraignment date, but shall instead, direct the student to the appropriate court; and
 - (f) Specify the effective date of the administrative order. The effective date shall be no less than ten days from the date the order is signed.

7. Fund. A.R.S. § 28-3398(A) establishes the defensive driving school fund consisting of the monies collected from the fee established by the supreme court pursuant to A.R.S. § 28-3397(A). Pursuant to A.R.S. § 28-3398(B), one of the purposes of the fund is "subject to legislative appropriation, to supervise the use of defensive driving schools by the courts in this state and to expedite the processing of all offenses prescribed in chapters 3 and 4 of this title." Further, A.R.S. § 28-3398(C) provides: "The fund established in this section is not subject to reversion. On notice from the supreme court, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund."

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 school shall:
 - a. Provide proof of citizenship or legal status for every owner, principal, officer, director or shareholder.
 - b. Provide an indemnification statement and conflict of interest statement signed by an owner or officer with the appropriate authority on behalf of the applicant.
 - c. Provide an affirmation of eligibility, evaluation form and completion certificate or receipt.
 - d. Fully disclose all relationships to any parent company or organization and currently paid or unpaid officers, directors, owners and boards of directors and any and all

company subsidiary dba's operating in any state.

- e. Declare a statutory agent in Arizona.
- f. Obtain any necessary federal and state tax identification numbers as required by law
- g. Provide a copy of all third party contracts regarding any operational or financial proceedings with the application. The applicant shall not contract with a third party to complete or issue completion certificates. Incidental operations such as telephone, copying, or Internet services are not subject to this requirement.
- h. Purchase and maintain general liability insurance that meets the following conditions:
 - (1) Incidental malpractice with a minimum combined single limit of \$1,000,000 per occurrence;
 - (2) The policy shall name as additional insureds the state of Arizona, supreme court and any superior or limited jurisdiction court with which the applicant will provide defensive driving school services and their officers, agents and employees;
 - (3) The insurer shall hold a valid license to do business in the state of Arizona with minimum ratings as specified by the Arizona Department of Administration; and
 - (4) If the applicant is part of a self-insured government entity, the applicant shall submit documentation from the government entity stating the applicant's coverage.
- i. Designate a principal with whom division staff may communicate on any administrative, procedural or operational issues and who will have certain responsibilities pursuant to subsection (F).
- j. Provide articles of incorporation and letters of good standing from the Arizona Corporation Commission or the Secretary of State, or if the applicant uses ADM, from comparable entities of the state where the business is incorporated or licensed.
- k. File a defensive driving course curriculum only by electronic means. 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 school may require a student to complete a course content review. All 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.
 - (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.
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. Once approved, a school may not change the procedures until the school obtains approval from the board.

- m. Establish an accounting and recording system ensuring accurate reporting of all transactions relative to the receipt of court diversion, state fees and state surcharges providing sufficient documentation for audit purposes.
- n. Establish a cash receipts procedure including use of pre-printed, consecutively numbered receipts or receipts consecutively numbered by an automated system and issued to each student from whom a defensive driving fee is collected. These procedures shall result in compliance for the timely disbursement of all court diversion, state fees and state surcharges pursuant to subsections (F)(27) and (F)(28).
- o. If the applicant is an ADM school, contract with at least one Arizona certified defensive driving instructor.
- p. Provide the name of the instructor the applicant intends to instruct the classroom approved curriculum, or if an ADM school, the name of the instructor the school has employed or contracted with for student contact.
- q. Develop an instructor training seminar.
- 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 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.
- s. Correct any deficiencies noted by the division staff in the curriculum or authorization of use of materials and present a second demonstration if requested by division staff to qualify for certification.
- t. Designate at least one individual to receive training from division staff on the operational requirements of the defensive driving database.
- u. Exhibit a proficiency in the operation of the defensive driving database prior to certification and obtain signed verification by division staff of that proficiency.
- v. Provide a copy of the refund policy to division staff for approval to ensure compliance with refund policies of this section.
- w. Provide proof the applicant has a secured website when collecting confidential information from students.
- x. If an ADM applicant, provide documentation of processes regarding:
 - (1) Identification of a student's cheating or dishonesty;

- (2) Student failure of identity verification questions; and
 - (3) Student failure of course participation questions.
2. Eligibility for Certification as an Instructor. In addition to the requirements of ACJA § 7-201(E), for qualification as an instructor, an individual shall:
- a. Be at least 21 years old.
 - b. Have a high school diploma or general equivalency diploma.
 - c. Be a legal resident or citizen of the United States.
 - d. Hold a valid driver license issued by the state of residence.
 - e. Pass a certification examination testing the applicant's knowledge, skills and abilities as an instructor.
 - f. Attach a certified current 60 month motor vehicle record to the application.
 - 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.
3. Time Frames for School Certification.
- a. An applicant for certification shall respond timely to requests for additional information from division staff pertaining to the applicant's initial application and curriculum, pursuant to ACJA § 7-201(E)(3)(b).
 - b. An applicant for certification as a defensive driving school shall have one year from the date division staff received the original application to complete the initial certification process. 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, but not limited to, letters of good standing, disclosure of relationships, third party contracts and fees. The applicant shall submit a new application, supporting documents and fees after the time frame has lapsed.
 - c. If the applicant needs additional time to comply with division staff requests to complete the application process, including revisions of curriculum, the applicant shall file a written request with division staff for an extension of time to complete the application process. The request shall state the reasons for additional time to comply with the time frames and certification requirements. Division staff shall forward the written request for an extension of time to the board to review at the next regularly scheduled board meeting. Requests for extension of time to complete the application process do not constitute an emergency board meeting.

- d. If the board denies additional time to complete the application process, the applicant shall re-apply with all costs and fees as an initial applicant.
4. Decision Regarding Certification for Schools or Instructors. In addition to the requirements of ACJA § 7-201(E) the following requirements apply:
- a. The board shall deny certification of an applicant for certification as an instructor if the applicant has received:
 - (1) A suspension or revocation of the applicant's driver license in any jurisdiction, within the 60 months preceding the date the applicant files for certification;
 - (2) A criminal conviction involving vehicle operation in any jurisdiction, within the 60 months preceding the date the applicant files for certification; or
 - (3) More than one civil traffic moving violation of the applicant's driver license in any jurisdiction, within the 24 months preceding the date the applicant files for certification.
 - b. The board may refuse to certify any applicant for certification as a school if:
 - (1) The applicant conducts business under a trade name which implies a course other than the teaching of a defensive driving course;
 - (2) The applicant offers a premium, prize, food, lifestyle, entertainment or other inducement for selecting the school, other than the legal diversion or mitigation of a traffic citation; or
 - (3) The applicant fails to resolve a conflict of interest, as described in this subsection:
 - (a) Certification as, or operation of, a school by a public agency or an employee of a public agency, where the employing public agency has within the regular scope of duties the power to cite individuals for minor moving violations, to influence the resolution of citations for minor traffic violations, or otherwise control, advise, solicit, or order the attendance, or potential attendance of individuals in a school. This limitation on certification or operation of a school by public agencies or employees of public agencies does not preclude law enforcement officers from acting solely as employed or contracted instructors for schools provided the provisions of subsection (E)(2)(g) are met;
 - (b) Certification as, or operation of, a school by a public agency or an employee of a public agency which or who is in a position to derive a profit or fund the agency's or person's own activities from the use of its facilities or employees in the presentation of a defensive driving course;
 - (c) Employment by a school, either for pay or as a volunteer, of any employee of a public agency who has within the regular scope of the employee's duties the power or ability to control, advise, solicit, or order the attendance of individuals in a school, or who is in a position to derive a profit or fund the public agency's activities from the use of the public agency's facilities and employees to further the presentation of a school's defensive driving course;
 - (d) Compensation of, or offering incentives to, a court employee, either directly or indirectly, to enroll students in a school or for selection of a specific school;

- (e) Employment as a volunteer or paid employee, or compensation of any court officer or employee, to operate, instruct or provide any service to a school; or
- (f) Any other perceived or actual conflict of interest or appearance of impropriety.

c. Denial of certification. These requirements are contained in ACJA § 7-201(E).

d. Eligibility for application after denial. These requirements are contained in ACJA § 7-201(E).

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

1. Adhere to the standards in the code of conduct in subsection (J).
2. Assume responsibility for all operational aspects of a school including any elements or functions performed by third-party contractors. Any actions by non-certified third-party contractors constituting allegations of acts of misconduct or violations of ACJA § 7-201, this section, or any other court policy or rule are the responsibility of the school. The school is subject to disciplinary action as provided in ACJA § 7-201(H) and this section for any acts of misconduct or violations by third-party contractors.
3. Maintain a statutory agent in Arizona.
4. Notify division staff of any change in the telephone number, business address, mailing address or home address of principals, officers and owners of the school or any other required database information within three business days of the change. The designated principal of the school shall notify division staff through the defensive driving email system or in writing, utilizing the form provided by division staff.
5. Designate a principal who holds contracting authority for the school, with whom division staff can immediately make contact concerning any process or procedure of the school or court operation. The principal shall:
 - a. Prepare and submit, with the initial school application, a list of all instructors or applicants for certification and staff members requiring access and training for the defensive driving database.
 - b. Actively and directly supervise all instructors and staff who have access to the defensive driving database to ensure compliance to all Arizona statutes, ACJA § 7-201 and this section.
 - c. Ensure all employees receive initial and continued training as needed for proficiency in the ACJA processing requirements and defensive driving tracking system.
 - d. File with division staff, by December 1st of each year, a list of all instructors and staff of the school who have access to the defensive driving database, as of October 31st of that year.

- e. Notify division staff within seven days if an instructor or staff member with access to the defensive driving database leaves the employment of the school.
- f. Require a newly employed or contracted instructor of a traditional classroom school to attend at least two courses regarding the employer school's curriculum and teach one class under the supervision of the principal or the principal's designated instructor.
- g. Provide a list of sites to division staff where defensive driving courses are available for students and disclose if the course is a traditional classroom or ADM format. The principal shall also provide division staff with a list of instructors' schedules in a specified electronic or other format and update it as often as necessary to ensure accuracy. The school offering ADM courses shall provide division staff with a schedule of technical staff and instructors available to answer any student questions, within the allowable time frames of the course presentation.
- h. Provide division staff with any proposed new third-party contracts after initial certification for review by staff and approval by the board. The staff shall submit this information to the board for review and approval at the next regularly scheduled meeting of the board.
- i. Provide information to division staff on any proposed modification or cancellations of previously approved third party contracts. The staff shall submit this information to the board for review and approval at the next regularly scheduled meeting of the board.
- j. If an ADM school, ensure instructors are available to provide answers for any student inquiries within 24 hours and ensure staff is available to correct technical and operational system errors within 24 hours of being reported.
- 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. This total fee must be provided to the student prior to registration. The school shall provide the total school fee information in a conspicuous area on the school's web site or published materials in a manner that is readily noticeable to the public.
- l. A defensive driving school shall post on the opening page or opening Arizona page of their internet website the following information:
 - (1) The total cost to attend defensive driving for diversion;
 - (2) The school's 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.
- m. Report the school fee up to two times each year, effective either on April 1st or October 1st, or on both dates. A school shall notify division staff by September 1st for changes effective October 1st and by March 1st for changes effective April 1st regardless of whether the school changes the fee or retains the current fee, using the form provided by division staff. Any notice received from a school after the March 1st deadline will not take effect on April 1st but will be delayed until the next change date on October 1st. Any notice received from a school after the September 1st deadline will not take effect on October 1st but will be delayed until the next change date on April 1st.
- n. If an ADM school, ensure the examination is included in the online course; and
- o. In addition to the provisions contained in ACJA § 7-201(H)(6)(c), a certificate holder is subject to disciplinary action if the board finds the certificate holder has failed to cooperate with or supply information to any court or court staff by the time specified in any request.
6. At the discretion of the school, in any proceeding under Arizona statutes, ACJA § 7-201 and this section, the principal may represent the school entity.
7. File any report with the State of Arizona as required by law, court rule, ACJA § 7-201 or this section.
8. Maintain the confidentiality of all records regarding student personal and financial information and only transmit confidential information by U.S. Post, facsimile, or secure electronic file. A school shall house technical facilities (ISP host, data storage and support systems) and shall ensure all information is not accessible to unauthorized parties. The information contained in the defensive driving database is not a public record and is confidential. Certificate holders shall not access the database for any purpose other than to verify students' eligibility or to record students' registration, payment, or completion information. Accessing the database for the purpose of sale or resale or for the purpose of producing a document containing all or part of the database for sale or the obtaining of names and addresses from the database for the purpose of solicitation or the sale of such names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from direct or indirect use of such information is prohibited.

9. Disposal of records does not relieve the certificate holder from the responsibility of maintaining the confidentiality of all records. Disposal or destruction of records shall be conducted in a manner that renders students' personal and financial information illegible.
10. Present the curriculum and materials approved by the board in defensive driving courses.
11. Develop and prepare to offer a version of the curriculum, as approved by the board, in response to a request for accommodations under the Americans with Disability Act.
12. Follow detailed written administrative, operational and financial procedures. If the school is a multi-purpose agency, it shall establish separate records and procedures for the reporting of revenue receipts, disbursement of funds and any other financial transactions for the school portion of the agency.
13. Provide each registering student information regarding the school's refund policy prior to any payment of fees or registration in the course.
14. Not co-mingle any defensive driving diversion or state fees with any school or business operating fees or accounts.
15. Ensure procedures and records conform to generally accepted accounting principles and the minimum accounting standards adopted by the supreme court.
16. Collect the court diversion fee, defensive driving, judicial collection enhancement fund fee, and state surcharge, plus any fee charged by the school for the defensive driving course, before an individual begins any type of defensive driving course.
17. Issue an original completion certificate only to a student who:
 - a. Provided proper identification;
 - b. Signed the eligibility affirmation;
 - c. Accepted the school refund policy;
 - d. Provided a copy of the citation or court order;
 - e. Paid all fees;
 - f. Passed the identity verification and course participation questions if an ADM course; and
 - g. Completed the defensive driving course.
18. Ensure each student who takes an examination following a defensive driving class receives notice of passing or failing the examination within 24 hours of the conclusion of the examination.

19. Collect and remit all court diversion fees to each court as required by A.R.S. § 28-3396(C) and this section. Once a student begins a defensive driving course with a school, the school is responsible for payment of fees regardless of whether the fee has been collected from the student. The school shall hold the diversion fees in trust for the courts until disbursed.
20. Transmit all required reports and data concerning the student and traffic ticket for which the fees are collected, according to the approved reporting procedures pursuant to subsection (F)(25).
21. Collect and remit the 45 dollar surcharge imposed pursuant to A.R.S. § 28-3396. The school shall remit this state surcharge to the AOC. Upon receipt, the AOC shall transmit the state surcharge to the state treasurer for deposit, pursuant to A.R.S. §§ 28-3396, 35-146 and 35-147. The school shall hold the state surcharge in trust for the state treasurer until remitted to the AOC, and shall follow the schedule specified in subsection (F)(28) for remittance to the AOC.
22. Collect and remit all state fees and the required reports concerning the student and traffic ticket for which the fees were collected, or a “negative state fee report” if no state fees were collected. The school shall hold the state fees in trust for the Supreme Court until disbursed.
23. Submit the school's schedule of future classroom defensive driving courses within fourteen days of the date of the scheduled defensive driving course. The schedule shall include the date, start and end time, instructor name and location of each defensive driving course. The school shall immediately notify division staff of any changes to the school's schedule, such as instructor changes or class cancellations. The school shall make notification to the division staff through the defensive driving email system.
24. Traditional classroom defensive driving schools shall conduct a minimum of one class per month in a county to maintain the school's listing on the defensive driving web site and toll free phone lines for that Arizona county. If a school does not provide at least one class in a month in the specified county, division staff shall, beginning the following month, revise the listing on the website and toll free phone line to remove reference to the school as providing services for that county.
25. Comply with the following requirements:
 - a. Report to the AOC for transmission to the court the following:
 - (1) Student registration reporting requirements:
 - (a) School certification number;
 - (b) Student name;
 - (c) Student date of birth;
 - (d) Student driver license number;
 - (e) Student driver license state;
 - (f) Citation number;
 - (g) Citation violation date;
 - (h) Violation type;
 - (i) Charge identifier;

- (j) Registration type;
 - (k) Date student scheduled to attend class; and
 - (l) Court code number.
- (2) Transmission of registration information:
- (a) Schools shall transmit registration information to the AOC within three business days of the students registering.
 - (b) Schools shall, within one business day, resolve any rejected student registration and resend the corrected registration information to the AOC;
 - (c) Schools shall, if the registration information cannot be resolved in one day, contact the court of jurisdiction directly to resolve the rejected registration.
- (3) Student completion reporting requirements:
- (a) School certification number;
 - (b) Student name;
 - (c) Student date of birth;
 - (d) Student driver license number;
 - (e) Student driver license state;
 - (f) Citation number;
 - (g) Citation violation date;
 - (h) Receipt date of funds;
 - (i) Date student completed the course;
 - (j) Violation type;
 - (k) Program code;
 - (l) Completion type;
 - (m) Charge identifier; and
 - (n) Court code number.
- (4) Transmission of completion information:
- (a) Schools shall transmit completion information to the AOC within three business days of the student completing the course;
 - (b) Schools shall, within one business day, resolve any rejected student completion records and resend the corrected completion record to the AOC;
 - (c) Schools shall, if the completion information cannot be resolved in one day, contact the court of jurisdiction directly to resolve the rejected completion.
- b. Access the defensive driving database correctly and accurately and:
- (1) Maintain the proper hardware and software and the ability to connect and interface with the defensive driving database and update these as often as required by division staff to maintain efficient system function;
 - (2) Assume responsibility for all costs of equipment, telephone lines, contractor fees incurred to meet these requirements and maintain the system to comply with all statutory and ACJA requirements;
 - (3) Ensure the required data for state fees and defensive driving course completion is entered and all errors corrected, or an error correction requested, within one business day; and
 - (4) Report completions timely and accurately in order to process, on average, 98 percent timeliness and accuracy each quarter.
 - (5) Pay a processing fee, pursuant to subsection (K)(4)(e), for any individual the school allows to complete a defensive driving course when the individual was not eligible to attend a defensive driving class.

c. Conduct defensive driving courses and:

- (1) Maintain class schedule directories as required pursuant to subsections (F)(5)(g) and (F)(23) on the same physical computer system that accesses the defensive driving database;
- (2) Comply with all requirements of this section in the same manner for students attending an out-of-state defensive driving class; except the completion date for an out-of-state student is the date the receipt or completion certificate, required fees and documentation are received by the coordinating Arizona school;
- (3) Ensure each student receives a minimum of four hours (240 minutes) instructional time and a maximum of four and one-half hours (270 minutes) of course time pursuant to A.R.S. § 28-3395.
 - (a) Instructional time does not include time spent for:
 - (i) identity verification;
 - (ii) participation in validation processes;
 - (iii) travel to and from a classroom or testing site; or
 - (iv) obtaining student evaluations.
 - (b) Course time includes:
 - (i) obtaining student evaluations;
 - (ii) any testing, review, or grading; and
 - (iii) providing students with their receipts or completion certificates.
- (4) Present only the material contained in the school's board approved curriculum;
- (5) Not use a defensive driving course as a forum for any purpose except the presentation of the approved course curriculum;
- (6) Schedule adequate breaks in compliance with the Americans with Disabilities Act;
- (7) Require the instructor remain in the classroom with the students during the full 240 minutes of instructional time; or when an ADM format is used, ensure instructors are available to provide answers for any student inquiries within 24 hours and ensure staff is available to correct technical and operational system errors within 24 hours of being reported;
- (8) Limit attendance to only the number commensurate with student comfort in the classroom. This shall include adequate space and seating capacity for all students registered for the defensive driving course, heating and cooling and immediate access to drinking water and restroom facilities. In no case shall the number of students exceed 60 attendees per class.
- (9) Ensure all classrooms meet all federal, state, county and local health, safety and building requirements, including the Americans with Disabilities Act; and are consistent with a learning and instructional environment in keeping with judicial decorum;
- (10) Provide classrooms with adequate audiovisual equipment allowing all students to see and hear the presentation clearly, if audiovisual presentations are a part of the approved curriculum;
- (11) Expel students from the class who do not comply with the classroom standards and the reasonable instructions of the school's staff. When a school expels a student from the classroom, the school shall make and retain a report explaining the circumstances and reasons for expulsion and copy the court of jurisdiction;

- (12) Require students to complete an evaluation form in either a classroom setting or ADM format and forward the completed evaluations to division staff within five days of the request;
- (13) Submit, for approval by the board, changes to any element of the school's currently approved defensive driving course presentation, including any materials or additions the certificate holder is proposing to the format or delivery of the course. The school shall obtain board approval for the changes prior to the course;
- (14) If an ADM course, provide access and delivery of the course to ensure a student's completion falls within time frames pursuant to subsection (E)(1)(k) and court allowances. An ADM school shall allow a student to log in and out of the ADM course at will, provided the school complies with all provisions of subsection (E)(1)(k) and shall maintain an electronic record of the student's participation in the course, including the student's log-in and log-out times; and
- (15) If an ADM course, correct any technical or system breakdowns within 24 hours of reporting by a student or discovery by the school.

d. Eligibility, Registration and Attendance of Students.

(1) To determine eligibility, the school shall:

- (a) Pursuant to A.R.S. § 28-3392(B), only allow a person to attend a defensive driving school once within a twenty-four month period from the date of the last violation by querying the defensive driving database; and
- (b) Verify the violation is:
 - (i) an eligible moving violation as specified by A.R.S. § 28-3392(A);
 - (ii) permitted by the court for diversion if an eligible misdemeanor;
 - (iii) not a violation resulting from a collision causing the death or serious physical injury of any person as defined in A.R.S. § 28-3392(C)(1);
 - (iv) not a violation which occurred when the offender held a commercial driver license;
 - (v) not a violation which occurred while operating a commercial motor vehicle that requires a commercial driver license; or
 - (vi) court ordered.

(2) A school may grant a continuance of the arraignment date if:

- (a) the court has issued an administrative order pursuant to subsection (D)(6)(e)(4), authorizing the school to grant a continuance;
- (b) it is a onetime occurrence;
- (c) the school informs the student the number of days the court permits for the continuance and the date by which the student must successfully complete the defensive driving course; and
- (d) the continuance is requested at least seven days prior to the arraignment date. A court may not authorize a school to grant a continuance and a school may not grant a continuance if the continuance is requested less than seven days prior to the arraignment date.

(3) In the materials provided to students, the school shall:

- (a) Include phone numbers and e-mail addresses of the available school staff to allow students to receive answers to their questions quickly and efficiently; and

- (b) Notify the student the course completion date is seven days prior to the court arraignment date on the citation.
- (4) Each school shall:
- (a) Require each student to show official identification prior to beginning a class and verify the registration information for accuracy against the official information by direct comparison. Acceptable forms of identification are limited to a government-issued driver license or identification card. Schools may retain a photocopy of each driver license;
 - (b) Require individuals who are court-ordered to attend a defensive driving class to provide the court order requiring attendance at the time of class attendance. The school shall retain a copy of each court order;
 - (c) Collect and retain a copy of the individual's citation to permit verification of data and eligibility and furnish the citation on request to division staff;
 - (d) Provide an explanation to each individual enrolling in a defensive driving course of the provisions and implications of signing the affirmation of eligibility and require the individual to read and sign the affirmation of eligibility prior to beginning any defensive driving course for dismissal of a traffic citation;
 - (e) Provide students who complete a defensive driving course with a receipt or completion certificate including, at a minimum, the following information:
 - (i) name of the student;
 - (ii) date of the class;
 - (iii) court of jurisdiction;
 - (iv) citation or docket number for dismissal;
 - (v) name of the school; and
 - (vi) the school's authorized signature.
 - (f) Complete all required information on each certificate prior to delivery to the student;
 - (g) Not issue a completion certificate or receipt to any student who has not signed the affirmation of eligibility;
 - (h) Not accept any student who has not registered and been prescreened through the eligibility process of subsection (F)(25)(d)(1) for the class and attempts to participate as a walk-in; and
 - (i) A school shall not allow a third party to complete or issue a certificate of completion.
- (5) The ADM school shall:
- (a) Use the same methods for determining individual and citation eligibility pursuant to subsection (F)(25)(d);
 - (b) Make a positive identification of the individual enrolled in the defensive driving course, at the time of delivery of the course materials, by demonstrating the individual registered for the course is the actual participant during the time the course is taken and completed;
 - (c) Obtain and keep on file a copy of the student's citation or court order prior to the student beginning an ADM course. A school may accept citations by fax, mail, or via electronic means;
 - (d) Schedule system outages for server maintenance and upgrades and post advanced notice on the website, accordingly;
 - (e) Notify students immediately of technical difficulties as they arise, including an estimate of the length of time the system may be unavailable;

- (f) Maintain a record of validation and course content questions and dates the examination was given for two years;
 - (g) Maintain a record of each question and whether it was answered correctly, incorrectly, or not at all;
 - (h) Maintain, for three years, a complete electronic record of each student's participation in the defensive driving course including student log-in and log-out times;
 - (i) Maintain evidence the student engaged in active participation during the presentation of the course;
 - (j) Not allow a retest when a student fails the course participation portion of the examination;
 - (k) Maintain a record of each student's course participation and identity verification_test results for three years;
 - (l) Immediately refer any student caught cheating or being dishonest in participating in the course or examination to the court of jurisdiction;
 - (m) Refer a student who fails the examination twice to the court of jurisdiction or to a traditional classroom course, time permitting;
 - (n) Provide a student who fails the examination twice with specific written instructions for the process of registering for a classroom course, and documentation to provide to the classroom school reflecting the student's failure of the online examination; and
 - (o) Not issues a student participating in an ADM course a certificate of completion unless the student correctly answered the required number of course participation and identity verification questions.
- (6) Correct, or request division staff to correct, a registration record within three business days of system notice or discovery. A school shall correct the following types of registration errors without division staff assistance:
- (a) Citation number;
 - (b) Violation type;
 - (c) Charge identifier; and
 - (d) Court code number.

26. Out of State Offenders.

- a. A school shall coordinate the defensive driving attendance and completion of eligible offenders who receive an Arizona violation and are authorized by a court to attend an out-of-state program. Coordination shall include:
 - (1) Verification of the individual's eligibility prior to attendance;
 - (2) Collection and retention of all student data and an affirmation of eligibility;
 - (3) Reporting registration information pursuant to subsection (F)(25);
 - (4) Collection and disbursement of court diversion fees, state fees and state surcharges as required by this section;
 - (5) Reporting of required data to the defensive driving database for an out-of-state student who completes a defensive driving course pursuant to subsection (F)(25);
 - (6) Notification to the jurisdictional court of the student's completion and any other reports required by that court in connection with a student attendance; and
 - (7) Providing each out-of-state student with information regarding the student's responsibilities regarding attendance requirements.

- b. A student shall provide satisfactory evidence of course completion seven days prior to the court arraignment date issued on the citation and shall comply with all applicable requirements and policies of statutes, this section and court or local rules.
- c. The completion date for an out-of-state attendee is the date a copy of the receipt or valid completion certificate and all required fees are received by a school.
- d. A school shall require and retain reasonable evidence the individual taking the out-of-state course is the same individual named on the Arizona violation. The school shall make a positive check of the individual's driver license at the time of the defensive driving course in a classroom setting or if an ADM course, upon delivery of materials to the individual, and notarization by jurat of the required documents.

27. Accounting Systems. A school shall comply with the following accounting and recording requirements:

- a. Maintain an accounting and recording system ensuring accurate reporting of all transactions relative to the receipt of court diversion fees, state fees and state surcharges, providing sufficient documentation for audit purposes.
- b. Maintain a cash receipts procedure including use of pre-printed, consecutively numbered receipts or receipts consecutively numbered by an automated system and issued to each student from whom a defensive driving fee is collected. Receipts shall provide the following information:
 - (1) Student's name;
 - (2) Receipt date;
 - (3) Amount received;
 - (4) Name of the individual making the payment;
 - (5) Identification of the individual receiving the payment;
 - (6) Method of payment;
 - (7) Sequential receipt number; and
 - (8) Name of the school.
- c. Maintain a cumulative record of each individual who has prepaid for a defensive driving course but has not attended. A school shall handle all prepaid fees in accordance with this section and hold them in trust in a non-interest bearing account for the courts and state treasurer until disbursement on the prescribed schedule or until an approved refund is issued to the individual pursuant to this section.
- d. Not enter student completion records in the defensive driving database in advance, nor enter a student record for any individual who has not actually completed an approved defensive driving course.
- e. Retain all records related to a student's attendance or otherwise required by this section a minimum of three years. Each student record shall include the following information:

- (1) Receipt number;
 - (2) Student's complete name, address, date of birth, and license number;
 - (3) Citation information, including the number, charge number, court code, violation code and violation date;
 - (4) Receipt date;
 - (5) Amount received;
 - (6) Method of payment;
 - (7) Identification of the individual accepting the payment;
 - (8) Date and location of class assignment;
 - (9) Date the student completed the defensive driving course;
 - (10) Program code;
 - (11) Violation type;
 - (12) Location of class (in state or out of state);
 - (13) Copies of any applicable court order and other information significant to the record;
 - (14) Type of defensive driving course, if not a classroom course; and
 - (15) Issuing court.
- f. Enter all required completion information on the defensive driving database no later than three business days after the date of each defensive driving course for each student who completed a course.
 - g. Enter a state fee record on the defensive driving database for any student who pays for a defensive driving course but does not complete the course within that payment period.
 - h. Enter a state fee record for any student who did not complete a defensive driving course no later than seven days after the end of either of the payment periods in which the fee was collected.
 - i. Correct, or request division staff to correct, a state fee or completion record within three business days of system notice or discovery. A school shall correct the following completion record errors without division staff assistance:
 - (1) Date student completed the course; and
 - (2) Violation type.
 - j. Maintain a checking account for court diversion and state fees for the sole purpose of preventing any co-mingling of school operating monies, fees from any court diversion and state fees or state surcharges until disbursed to the appropriate court.
 - k. Maintain procedures resulting in compliance for the timely disbursement of all court diversion fees, state fees and state surcharges pursuant to subsection (F)(28).
28. Remittance and Reporting of Court Diversion, State Fees and State Surcharges. A school shall comply with the following requirements regarding remittance of fees to the appropriate court and reporting requirements:
- a. Maintain a remitting and reporting system ensuring accurate transmission of court diversion fees, state fees and state surcharges providing sufficient documentation for

audit purposes. Division staff shall pre-approve any change in the remitting or reporting system.

- b. Deliver electronic state fee and state surcharge remittance reports to division staff in the required format, on or before the payments due date, pursuant to subsection (F)(28)(e). The school shall retain electronic reports in an accessible format until the school receives confirmation from division staff the information is usable, complete, accurate and reconciled.
- c. Deliver state fee and state surcharge remittance reports to division staff in the required format, on or before the payment due date, pursuant to subsection (F)(28)(e).
- d. Report general student and payment information and defensive driving course completion data directly to the defensive driving database in either an on-line or batch basis.
- e. Remittance reports shall provide detailed records on each student the school is reporting; aggregate numbers are not acceptable. The report shall ensure a state fee and state surcharge is remitted for each student whose name appears on the remittance report. A school shall remit all state fees and state surcharges in compliance with the following:
 - (1) "Pay Period A" fees shall be received between the first through the 15th of the month by the 22nd day of that month;
 - (2) "Pay Period B" fees shall be received between the 16th through the 31st of the month by the seventh day of the following month;
 - (3) Submit a separate remittance report for each of the following categories:
 - (a) Individuals who completed the defensive driving course and the state fees and state surcharge are remitted for the pay period;
 - (b) Individuals who registered but did not complete a defensive driving course and the state fee and state surcharge were collected in the pay period;
 - (c) Individuals who completed the defensive driving course and the state fee and state surcharge were paid in a prior pay period; or
 - (d) If no payment is due to the supreme court, the school shall prepare and submit a non-state fee and non state surcharge report.
- f. A school shall transmit all diversion fees to the appropriate court in compliance with the following:
 - (1) The school shall submit a remittance report with the fees. The report shall contain the following information:
 - (a) Name of each court to which a payment is made;
 - (b) Payment date;
 - (c) Amount of the payment;
 - (d) Check number;
 - (e) Information on the individual who completed the defensive driving course:
 - (i) Complete name;
 - (ii) Birth date; and
 - (iii) Driver license number;

- (f) Citation number;
 - (g) Violation date;
 - (h) Violation;
 - (i) Date of defensive driving course completion, if applicable; and
 - (j) School name and number.
- (2) The school shall transmit the court diversion fees and the remittance report to the court once a week and within eleven (11) days of the successful completion of the class.
 - (3) The school shall transmit the court diversion fees and the remittance report only for those students who have successfully completed the defensive driving course and the completion record has been successfully transmitted to the AOC. Pursuant to subsection (F)(28)(c), the school shall hold the court diversion fees in trust for any student who has registered and paid the fees but not yet completed the course.
- g. A school shall submit diversion fee information to division staff, but may submit copies of checks or receipts instead of the court remittance diversion fee report pursuant to subsection (F)(28)(f).
 - h. Notify division staff and the court of jurisdiction of any student who completes a class but was not eligible for diversion and include in the notification the reasons the school failed to prevent the attendance. This requirement does not apply to students who are court-ordered pursuant to statute, when the court order is issued prior to the defensive driving course attendance.
 - i. Within three business days, replace any checks disbursed to any court or the state treasurer returned by the bank for insufficient funds and add all returned check charges incurred by the school to the replacement check.
29. Reconciliation System. A school shall comply with the following financial and reporting requirements:
- a. Reconcile and balance all collected fees on a daily basis and account for the remainder in the account at all times.
 - b. Reconcile the monthly bank statement for the court diversion, state fee and state surcharge checking account including:
 - (1) Aggregate receipts for the month shall match the aggregate deposits; and
 - (2) The month-end checking account balance shall match the unpaid amounts owed to the courts.
 - c. Investigate on a monthly basis all disbursement checks outstanding for more than six months-and if a check is outstanding the school shall:
 - (1) If the payee is a court or the state treasurer, notify the court or state treasurer, as applicable, of the outstanding check, cancel the outstanding check and reissue a new check, if necessary;

- (2) If the payee is a student to whom a refund is owed, send a letter to the payee's last known address advising the payee the check has not been cashed;
 - (3) If the student payee responds the check is lost, cancel the outstanding check and issue a new check; or
 - (4) If the student payee does not respond within 30 days or cannot be located, cancel the outstanding check and issue a check to the supreme court. The supreme court shall process the unclaimed refund according to state law.
- d. A school shall correct errors to state fee, state surcharge and completion records or submit a request for correction to division staff within three days of receiving notice from the system of the error or three days after discovery.
- e. Ineligible completion processing fee. The division director may assess an ineligible completion processing fee of \$20, for payment by the defensive driving school, if the school permits an ineligible student to complete a defensive driving course.
- (1) The division director shall notify the school in writing of the decision to impose the ineligible completion processing fee, the amount imposed, and the list of ineligible completion reports that are the basis for the fee.
 - (2) A school may request the board review the division director's decision to impose an ineligible completion processing fee by filing with the board a written request within 20 days after the school is notified of the division director's decision. In its written request for review, the school shall submit a copy of the notice received from the director and the school's grounds for objecting to the division director's decision to impose the fee. The board shall not consider any grounds that are not included in the school's written request for review.
 - (3) Payment of the ineligible completion processing fee is suspended until the determination of the request by the board.
 - (4) At the next regular board meeting, the board shall review the written request of the school and the documentation supporting the division director's decision to assess the ineligible completion processing fee. The board may also permit a representative of the school to appear and answer any questions regarding its request for review.
 - (5) Upon review, the board shall either uphold or reverse the division director's decision.
 - (6) Division staff shall deposit all processing fees paid for ineligible student reports pursuant to this section in the Defensive Driving Fund.
- f. Reconcile any insufficient fund checks and charges to the replacement check.

30. Refunds.

- a. Once a person begins a defensive driving course, classroom or ADM, the state fee, court diversion fee and state surcharge are non-refundable except as set forth in this subsection. An ADM school shall not refund the state fee or state surcharge for any student failing the required test but shall forward the state fee and state surcharge to the Supreme Court. A school may refund other registration fees pursuant to its own guidelines, or at the direction of a court. A school shall provide a student with its refund policy prior to accepting the fees from the student.

- b. A school shall provide a refund of court diversion, state fees and the state surcharge when:
 - (1) A student pre-pays for a defensive driving course, does not begin the course and does not contact the school to reschedule for a future course. The school shall refund the court diversion fee, state fee and state surcharge 30 days after the scheduled defensive driving course date or upon notification from the student the student will not attend a course, whichever is first;
 - (2) An officer fails to file a citation with a court and the cited person attends a defensive driving course for that citation. Upon notification by the jurisdictional court, the school shall notify division staff a refund is requested. Upon written approval by division staff, the school shall refund the court diversion, state fee and state surcharge to the student; or
 - (3) A citation is dismissed by a jurisdictional court on its own motion, for technical problems not correctable under civil traffic rules of court.
- c. Refund of the court diversion fee, state fee or the state surcharge shall result in restoration of the student's eligibility for a defensive driving course.
- d. Refund of state fees and state surcharges to a school or a student is not permitted for an ineligible violation or an ineligible student who attends a defensive driving course, whether by fault of the student or school.
- e. At its discretion, a court may direct refund of a court diversion fee to a student, or may direct the school to forward the fee to the court for a bond or other amount due the court, up to the amount of the default for the citation.
- f. A school shall maintain complete and accurate records of all refunds and shall attach supporting documentation to each refund disbursement.
- g. In cases where refunds cannot be authorized under this section, the board may authorize, pursuant to subsection (D)(5)(b)(2), restoration of eligibility for a student who attends a defensive driving course but cannot have the violation dismissed because the violation was ineligible for diversion. An ineligible violation is any violation not included in A.R.S. § 28-3392(A)(1) or (2).

31. Assumed Business Name. These requirements are contained in ACJA § 7-201(F)(3).

32. Instructors. In addition to the requirements of ACJA § 7-201(F), an instructor may only teach defensive driving courses or contract to provide assistance under the auspices of a school.

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

- 1. Expiration Date. All school and instructor certificates shall expire at midnight, October 31st of odd numbered years.

2. Schools. Each school seeking renewal of certification shall:
 - a. Pay the specified renewal fee in subsection (K), calculated by division staff based on the total number of students completing a defensive driving course during the previous two state fiscal years;
 - b. Pay any outstanding assessed ineligible completion processing fee;
 - c. Provide division staff any changes in administrative, operational or financial procedures;
 - d. Provide division staff any changes in curriculum content by electronic means only; and
 - e. Provide division staff any changes in third party contracts.
3. Instructors. All instructors shall:
 - a. Apply for renewal by submitting a certified motor vehicle record for the prior 24 months preceding the date the applicant files the renewal application with division staff.
 - b. Teach a minimum of eight 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.
 - c. Continuing education. During each renewal cycle all instructors shall attend a total of twelve hours of continuing education, six in each calendar year as required by the continuing education policies in subsection (L).
 - d. Pass the examination for certification required pursuant to subsection (E)(2)(e) to qualify for renewal of certification.
4. Restricted Certification.
 - a. In order for a school to cover their scheduled defensive driving courses in the event of an emergency where an instructor is not available to teach a course, an owner or principal of a school may apply for, and the board may grant a restricted certificate under the following conditions:
 - (1) The owner or principal shall apply for the restricted certificate on a form approved by the board;
 - (2) The owner or principal holds a valid certificate as an instructor and meets all renewal requirements, except the requirement for the number of classes taught; and

- (3) The owner or principal has not had a certificate that has been revoked or suspended.
 - b. To remain eligible to renew a restricted certificate, owners and principals shall complete all renewal requirements each renewal cycle except the number of defensive driving courses taught pursuant to subsection (G)(3).
5. Denial of Renewal. In addition to the requirements in ACJA § 7-201(G), the following requirements apply:
- a. The board may refuse to renew the certificate of any instructor who fails to meet the standards of this section and ACJA § 7-201 on two or more successive classroom monitoring sessions, completed more than 30 days apart.
 - b. If an instructor's certification lapses or is denied due to failure to meet renewal requirements, the instructor is not eligible to apply for subsequent certification for six months.

H. Complaints, Investigation, Disciplinary Actions and Hearings. These requirements are contained in ACJA § 7-201(H).

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

J. Codes of Conduct.

- 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.
 - a. Curriculum. A school shall exercise extreme care and diligence and ensure all materials used in the instruction of defensive driving courses, whether in a classroom or in an ADM format, are in the public domain or original and not copied without the appropriate written permission.
 - (1) A school shall make all reasonable efforts to secure accurate and current information in its presentations in defensive driving courses.
 - (2) A school shall not use any curriculum material or teaching methods not approved by the board.
 - 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.
 - (1) A school shall maintain the confidentiality of all defensive driving student records, only transmit confidential information by U.S. Post, facsimile, or a secure electronic file, and shall not disclose defensive driving database information to any third party. A school may disclose information only upon

presentation of reasonable evidence the individual seeking the information is the same individual who is the subject of the record. A school shall refer all third party requests for information to division staff.

- (2) A school shall not perform nor permit its employees, representatives or third party contractors to perform judicial functions or functions for court staff. School employees, representative or third party contractors shall not volunteer assistance to court staff in their official duties.
 - (3) In addition to the provisions of ACJA § 7-201(H)(6)(c), a school and its staff shall comply with all requests for communications or information from court staff.
- c. Classrooms. A school shall maintain the appropriate decorum in the classroom to promote an atmosphere of learning for students. A school shall:
- (1) Direct the instructors to require students to be punctual and attentive;
 - (2) Direct the instructors to prevent or control disruptions by students interfering with the conduct of the defensive driving course or distressing other students;
 - (3) Direct the instructors to prohibit students from sleeping or engaging in other activities that are not a part of the school's approved defensive driving course during the classroom instruction;
 - (4) Direct the instructors to forbid the use of electronic devices or laptop computers by students causing inattention or detractions from the learning of the student or other students in the defensive driving course; and
 - (5) Not use a facility for a classroom presentation which may create distractions prior, during or after the presentation.
- d. Compliance. A school shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section.
- e. Advertising. A school shall not permit any erroneous or misleading advertising by omission, material misrepresentation, dishonesty or fraud. 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.
2. Instructors. This code of conduct is adopted by the supreme court to apply to all instructors. The purpose of this code of conduct is to establish minimum standards of conduct for all instructors.
- a. Responsibilities. The fundamental responsibility of an instructor is to ensure the instruction of all students in the approved curriculum and to meet the mandatory instruction time, in a professional manner encouraging student learning.

- b. Ethics. An instructor shall exhibit the highest degree of ethical conduct and maintain the confidentiality of information provided by students.
- (1) An instructor shall be aware at all times the instructor represents the Supreme Court and the instructor's employing school.
 - (2) An instructor shall not act disagreeably or permit personal feelings, prejudices, animosities, or friendships to influence the student, classroom conduct or delivery of the defensive driving course.
 - (3) An instructor shall not accept any gratuities or favors from a student, other classroom participant or court employee.
 - (4) An instructor shall avoid the appearance of a conflict of interest or self-dealing. A conflict of interest or self-dealing arises where the instructor has a personal or agency interest other individuals may perceive as self-serving or adverse to the position of the student, school or court.
 - (5) An instructor shall exhibit the highest degree of professional conduct. An instructor shall:
 - (a) Act in a professional manner, prior, during and after the delivery of a defensive driving course;
 - (b) Dress in business casual attire, when teaching in a classroom setting;
 - (c) Not use a classroom presentation as a forum for any purpose except the presentation of the approved curriculum;
 - (d) Respond to questions or comments in a constructive manner, to encourage student questions and participation. This requirement applies to a classroom presentation and when an instructor is answering an on-line question;
 - (e) Respond in a constructive and professional manner to any disruptive activity in a classroom;
 - (f) Not make any derogatory comments concerning the courts, board, court employees, law enforcement or other professionals associated with the judicial system;
 - (g) Not advise or provide interpretation on any traffic law or the legality of a traffic law or citation issued to a student; and
 - (h) Not conduct any other enterprise or business activity in or within close proximity to the classroom or facility in which the traditional classroom course is conducted.
 - (6) Knowledge and training. An instructor shall:
 - (a) Understand the approved curriculum and have the knowledge and training to present the information to the students through an understandable adult learning technique;
 - (b) Present only the material contained in the school's curriculum;
 - (c) Respond to students' questions with clear and correct answers. If the instructor does not know the answer, the instructor shall advise the student, research the question and obtain the correct answer. The instructor shall provide the answer to the student, if possible, before the end of the classroom presentation or on-line defensive driving course. If the instructor cannot locate the answer before the end of the presentation or course, the instructor shall follow-up with the information for the student as soon as possible; and
 - (d) Take the necessary steps to become informed of any statutory or local ordinances changes in the traffic laws.

(7) Compliance. An instructor shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section.

K. Fee Schedule.

1. Initial School Certification Fees for Two Year Period.	Fee
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:	
(1) Certification expiring more than one year after application date	\$ 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. Certification expiring more than one year after application date	\$ 50.00
b. Certification expiring less than one year after application date	\$ 25.00
3. Examination Fees for Individuals.	
a. Applicants for certification examination	\$ 50.00
b. Re-examinations	\$ 50.00
(For any applicant who did not pass the examination on the first attempt. The \$50.00 fee applies to each re-examination.)	
c. Re-registration 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.)	

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 \$ 750.00

(3) Renewal year 2015 and after:

Renewal fee for all schools \$ 1000.00

b. Instructor renewal \$ 50.00

c. Late renewal fees

(1) School \$ 50.00

(2) Instructor \$ 50.00

d. Delinquent continuing education \$ 50.00

5. Miscellaneous Fees.

a. Replacement of certificate or name change \$ 25.00

b. Public record request per page copy \$ 00.50

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.)

e. Ineligible student completion processing fee (per occurrence) \$ 20.00

f. Implementation of an additional modality application fee \$ 2000.00

L. Continuing Education Policies.

1. Purpose.

- a. Ongoing continuing education is one method to ensure instructors maintain competence in the field after certification is obtained. Continuing education also provides opportunities for instructors to keep abreast of changes in the profession, applicable traffic laws, and the Arizona judicial system.
 - b. Pursuant to ACJA § 7-201(D)(5)(c)(1) the board shall make recommendations to the supreme court regarding rules, policies, and procedures to implement and enforce the requirements regarding instructors, including continuing education. This subsection is intended to provide direction to instructors and schools to ensure compliance with the continuing education requirements and to provide for equitable application and enforcement of the continuing education requirements.
2. Applicability. Pursuant to subsection (G)(3)(c):
- a. All instructors shall comply with the continuing education policies in ACJA §§ 7-201 and 7-205.
 - b. All instructors who hold individual certification shall complete six hours of continuing education every year for a total of twelve hours of continuing education during the renewal cycle, unless the board grants an extension. Instructors may not bank or roll over excess continuing education hours from one calendar year period to the next.
3. Responsibilities of Instructors.
- a. It is the responsibility of each instructor to ensure compliance with the continuing education requirements, maintain documentation of completion of continuing education, and to submit the maintained documentation upon the request of the board or division staff.
 - b. Upon request of the board or division staff, each instructor shall provide additional information required by the board or division staff when the board or staff reviews renewal applications and continuing education documentation.
 - c. Continuing education not recognized for credit upon board review does not in any way relieve the instructor of the responsibility to complete the required hours of continuing education.
4. Authorized Continuing Education Activities.
- a. Continuing education activity shall address areas of proficiency, competency and performance as a defensive driving instructor, impart knowledge and understanding of the field, applicable Arizona traffic laws and safe driving techniques; and increase the participant's understanding of the conduct and responsibilities of an instructor.
 - b. Continuing education activity shall include the following subjects:
 - (1) The role, conduct and responsibility of an instructor pursuant to ACJA §§ 7-201 and 7-205;

- (2) Topics pertaining to any defensive driving curriculum subject matter listed in subsection (E)(1)(k);
 - (3) Ethics for instructors, including cooperation with the court staff, schools, students, and other certified instructors or, professional courtesy and impartiality to all students; and knowing the differences between providing information versus giving legal advice. At least one hour in an ethics-related topic is required each year of the renewal period. The one hour of ethics must stand alone and may only be credited as ethics and not as a portion of the other five hours of continuing education required each year of the renewal period;
 - (4) Traffic laws pertinent to Title 28 of the Arizona Revised Statutes; Arizona Rules of Court; administrative orders and rules; Motor Vehicle Division issues which pertain to the Defensive Driving Program; and current issues in the Arizona court system affecting the Defensive Driving Program;
 - (5) Accompanying an on-duty certified law enforcement officer who is actively engaged in traffic enforcement activities;
 - (6) Adult education techniques;
 - (7) Presentation skills including utilizing reference materials and software for presenting defensive driving courses;
 - (8) Professional or personal development topics such as interaction management, time management, stress management, and CPR training; or
 - (9) Eligible in-service training conducted by a school owner or principal.
- c. Conferences. An instructor may receive continuing education credit for attendance at a conference relevant to the profession. An instructor may receive 100 percent continuing education credits for attendance at such a conference, provided the conference is directly related to the profession. Breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.
- d. University, college and other educational institution courses. An instructor may receive continuing education credit for a course or professional development program provided by a university, college or other institutionally accredited educational program if the instructor successfully completes the course or program with a grade of "C" or better or a "pass" on a pass/fail system. An instructor may receive continuing education credit if the course is relevant to the role and responsibilities of an instructor, adult education techniques, traffic laws or other topics pertaining to defensive driving curriculum and presentations. The instructor 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 the course work shall not exceed 50 percent of the total number of continuing education hours required for renewal.
- e. Authoring or coauthoring articles. An instructor may receive continuing education credit for authoring or coauthoring an article directly related to defensive driving instruction and curriculum if the article is published in a state or nationally recognized professional journal and if the article is a minimum of 1,000 words in length. An instructor may receive a maximum of one hour of continuing education credit for authoring an article or articles during a renewal period. An instructor 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.

- f. Self-study. An instructor may receive continuing education credit for self-study activities, including video and audio tapes, online computer seminars, and other methods of independent learning. A copy of the curriculum shall be submitted to division staff upon request. The maximum total hours of continuing education credits earned from self-study shall not exceed 50 percent of the total number of continuing education hours required for renewal.
 - g. Serving as faculty. An instructor may receive continuing education credit for serving as faculty, instructor, speaker, or panel member of a continuing education or instructional seminar directly related to defensive driving. This does not include any class or on-line presentations as an instructor for students enrolled in a defensive driving course. An instructor 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, instructor, speaker or panel member shall not exceed 50 percent of the total number of continuing education hours required for renewal and an instructor shall not receive duplicate credit for repeating a presentation during the renewal period. An instructor may receive continuing education credit for actual presentation time for duplicate presentations in subsequent renewal periods, however, shall not receive continuing education credit for preparation time for those programs.
 - h. An instructor shall not receive credit for monitoring or mentoring activities of a newly employed or contracted instructor.
5. Minimum Time. Each continuing education activity shall consist of at least 30 minutes of actual clock time spent by a registrant in actual attendance at and completion of a continuing education activity. "Actual clock time" is the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the initial 30 minutes of a continuing education activity, an instructor may receive credit in fifteen minute increments.
6. Maximum Credit. Unless the board determines otherwise, an instructor shall not receive more than 50 percent of the credit requirement for the renewal period through one activity. This limit shall not be exceeded unless the board approves an additional amount be credited, on a case-by-case basis, for an exceptionally lengthy or involved, professionally relevant activity, course, or event completed by the instructor. The board's decision is final in all such matters.
7. Non-Qualifying Activities.
- a. The following activities shall not qualify for continuing education credit for instructors:
 - (1) Educational course work and training completed to qualify for initial certification;
 - (2) Mentoring or trainee supervision activities;
 - (3) Serving on boards, committees or councils or as an officer in a professional organization;

- (4) Attendance or participation at board, committee, council or professional association business meetings, general sessions, elections, policymaking sessions or program orientation; and
 - (5) Activities completed as required by the board as part of a disciplinary action.
- b. Repeat of an activity. Continuing education activities repeated during a renewal period do not qualify for credited duplicate hours. An exception shall be allowed for an instructor who attends a Supreme Court training program or conference once per calendar year.
 - c. If an instructor attends part, but not all of a continuing education activity, the instructor is not eligible to claim partial credit completion.
8. Documentation of Attendance or Completion. When attending or completing a continuing education activity, each instructor shall obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation shall include the:
- a. Name of the sponsor;
 - b. Name of the participant;
 - c. Topic of the educational activity;
 - 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. An instructor shall submit an affidavit of continuing education compliance when applying for renewal of certification. The affidavit shall be in the format provided by division staff.
 - b. Pro-ration of continuing education requirement. An instructor whose certificate expires less than one year from the effective date of certification shall complete continuing education on a pro-rated basis at the rate of at least one continuing education credit for every two months the instructor has been certified. In subsequent renewal periods, the instructor shall complete the normal twelve hour continuing education requirement. Pro-ration of the continuing education requirement does not apply to an instructor who previously held certification and allowed certification to lapse.
 - c. Extension or waiver of continuing education requirements. An instructor seeking renewal of certification who has not fully complied with the continuing education requirements may request an extension of the continuing education requirements under the following conditions:

- (1) The instructor submits a written statement to the board, explaining the facts regarding non-compliance and requesting an extension of the requirements no later than the September 1st preceding the October 31st expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the instructor 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 instructor has been unable to devote sufficient hours to fulfill the requirements during the renewal period because of:
 - (a) full-time service in the armed forces of the United States during a substantial part of the renewal period;
 - (b) an incapacitating illness documented by a statement from a currently licensed health care provider;
 - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or
 - (d) any other special circumstances the board deems appropriate.
 - (3) An instructor whose certificate has been suspended or revoked by the board is not eligible to request an extension of the continuing education requirement.
 - (4) The board or division staff may request documentation or additional information from an instructor applying for renewal to verify compliance with the continuing education requirements. If the instructor fails to provide the requested documentation or additional information, the board may deem the application for renewal incomplete and deny renewal of certification.
- d. Random audits of continuing education compliance. During each renewal period, the board shall request division staff to randomly specify a number of instructors to demonstrate continuing education requirement compliance through submission of proof of continuing education participation. Refusal or failure to respond to a board or division staff request for documentation of continuing education compliance may result in denial of renewal of certification pursuant to ACJA § 7-201(G) or disciplinary action pursuant to ACJA § 7-201(H) and this section.
- e. An instructor who fails to complete the continuing education requirement, falsifies documents, or misrepresents attendance or an activity is subject to any or all of the following actions of the board:
- (1) Assessment of the delinquent continuing education fee;
 - (2) Denial of renewal of certification; or
 - (3) Disciplinary action pursuant to ACJA § 7-201(H) and this section.
10. Board Decision Regarding Continuing Education Compliance.
- a. Upon a review of continuing education documentation and any applicable additional information requested, the board may:
 - (1) Recognize instructor compliance with the continuing education requirement;

- (2) Require additional information from the instructor seeking renewal before making a decision;
 - (3) Recognize partial compliance with the requirement and order remedial measures; or
 - (4) Enter a finding of non-compliance.
- b. Division staff shall notify the instructor, in writing, within ten days of the board's decision. An instructor may appeal the decision by submitting a written request for review to division staff within fifteen days of the date of the notice of the board's decision. The instructor may request to appear before the board at the next available regularly scheduled board meeting.
 - c. The certification of an instructor 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.

**Defensive Driving Certification
Continuing Education Policy for Instructors**

- 2. Definitions. The following definitions apply throughout this policy:
 - a. "ACJA" means Arizona Code of Judicial Administration.
 - b. "CE" means continuing education.
 - c. "Instructor" means a person who is certified pursuant to ACJA §§ 7-201(E) and 7-205 to conduct defensive driving courses for a certified school; or in the case of alternative delivery methods, where an instructor is not present, who serves as the certified school's point of contact to answer student questions by telephone or electronic means.
- 3. Purpose.
 - a. Ongoing CE is one method to ensure instructors maintain competence in the field after certification is obtained. CE also provides opportunities for instructors to keep abreast of changes in the profession, applicable traffic laws, and the Arizona judicial system.
 - b. Pursuant to ACJA § 7-201(D) the board shall make recommendations to the supreme court regarding rules, policies, and procedures to implement and enforce the requirements regarding instructors, including CE. This policy is intended to provide direction to instructors to ensure compliance with the CE requirements and to provide for equitable application and enforcement of them.
- 3. Applicability.
 - a. All instructors shall comply with the CE policies in ACJA §§ 7-201 and 7-205.

- b. Pursuant to ACJA § 7-205(G)(3)(e), all instructors who hold individual certification shall complete at least six hours of CE through October 31, 2007. Beginning with the renewal cycle of November 1, 2007, and thereafter, instructors shall complete 12 hours of CE during the renewal cycle, unless the board grants an extension.

4. Responsibilities of instructors.

- a. It is the responsibility of each instructor to ensure compliance with the CE requirements, maintain documentation of completion of CE, and to submit the maintained documentation to the Defensive Driving Program upon the request of the board or division staff.
- b. Upon request, each instructor shall provide all additional information required by the board or division staff when reviewing renewal applications and CE documentation.

5. Standards.

- a. Maximum credit. An instructor may receive up to 50 percent in one activity of the total number of CE hours required for renewal, if the course/program is relevant to the profession.
 - (1) This limit shall not be exceeded unless the board approves an additional amount be credited, on a case-by-case basis, for an exceptionally lengthy or involved, professionally relevant activity, course, or event completed by the instructor. The Board's decision is final in all such matters.
 - (2) CE credits shall not be repeated during a renewal period. An exception shall be allowed for an instructor who attends a supreme court training program or conference once per calendar year.
- b. Minimum time. Each CE activity shall consist of at least 30 minutes of actual clock time spent by an instructor in actual attendance at and completion of a CE activity.
 - (1) "Actual clock time" includes the total number of hours attended, minus the time spent for breaks, meals, and business meetings. After completion of the first 30 minutes of a CE activity, credit shall be recognized in additional 30-minute increments.
 - (2) If an instructor attends part, but not all of a CE activity, unless otherwise provided for in the curriculum, the instructor is not eligible to claim partial credit completion.
- c. Documentation of attendance or completion. When attending or completing a CE activity, each instructor shall obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation shall include the:
 - (1) name of the sponsor;
 - (2) name of the participant;
 - (3) topic of the subject matter;
 - (4) number of hours actually attended or the number of credit hours awarded by the sponsoring entity;
 - (5) date and place of the program; and
 - (6) signature of the sponsor or an official document from the sponsoring entity.
- d. CE in excess of the required number of hours may not be carried forward into any future renewal period.

6. Authorized CE Activities, Courses and Events.

- a. CE Activities. A CE activity shall address the areas of proficiency, competency, and delivery of defensive driving instruction, impart knowledge and understanding of the field, applicable Arizona traffic laws and safe driving techniques, and increase the participant's understanding of the conduct and responsibilities of an instructor. Authorized CE activities include the following subjects:
 - (1) The role and responsibility of instructors including ACJA §§ 7-201 and 7-205.
 - (2) Topics pertaining to any defensive driving curriculum subject matter listed in ACJA § 7-205(E)(j)(1).
 - (3) Ethics for instructors, including cooperation with the court staff, schools, students, and other certified instructors. Also, professional courtesy and impartiality to all students, and knowing the differences between providing information versus giving legal advice. At least one hour in an ethics-related topic pursuant to ACJA § 7-250(J)(2) is required each renewal period.
 - (4) Traffic laws pertinent to Title 28 of the Arizona Revised Statutes; Arizona Rules of Court; administrative orders and rules; Motor Vehicle Division issues which pertain to the Defensive Driving Program; and, current issues in the Arizona court system affecting the Defensive Driving Program.
 - (5) Participation in accompanying an on-duty certified law enforcement officer who is actively engaged in traffic enforcement activities.
 - (6) Adult education techniques.
 - (7) Presentation skills including utilizing reference materials and software for presenting defensive driving courses.
 - (8) Professional/personal development topics such as interaction management, time management, stress management, and CPR training.
 - (9) Eligible in-service training conducted by a school owner or principal.
- b. Conferences. An instructor may receive CE credit for attendance at a conference relevant to the profession. A certificate holder may receive CE credits for attendance at such a conference, provided the conference is directly related to the profession. Breaks, meals, business meetings, and general sessions of the conference do not qualify as CE hours.
- c. University, college and other educational institution courses. University, college and other accredited educational institution courses and/or professional development programs. An instructor may receive CE credit for a course or professional development program provided by these organizations if the instructor successfully completes the course or program as certified by the institution and the course/program is related to the profession.
- d. Self-study. An instructor may receive CE credit for self-study activities, including video and audio tapes, online computer seminars, and other methods of independent learning. The employing school shall confirm the self-study was completed by the instructor for the stated number of hours and topic. A copy of the curriculum shall be submitted to Division Staff upon request.
- e. Serving as faculty. An instructor may receive CE credit for serving as faculty, instructor, speaker, or panel member of an instructional seminar directly related to defensive driving. An instructor may receive CE credit for the presentation time and up to two hours of preparation time for each hour of presentation.

7. Non-Qualifying Activities.

- a. The following activities shall not qualify for CE credit for instructors:
 - (1) Educational course work and training completed to qualify for certification;
 - (2) Trainee supervision activities. An instructor shall not receive CE credit for trainee supervision;
 - (3) Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions or program orientation;
 - (4) Serving on committees or councils or as officers in a professional organization; and
 - (5) Activities completed as required by the board as part of a disciplinary action.
 - (6) Meetings. Regularly scheduled meetings of committees on which the certificate holder serves do not constitute CE. Also, meetings held for the purpose of conducting a business meeting, election, policymaking session or program orientation do not constitute as in-service training.
- b. If an instructor attends part, but not all of a CE activity, the instructor is not eligible to claim partial credit completion.

8. Compliance and Non-Compliance.

- a. Affidavit of compliance. An instructor shall submit an affidavit of CE compliance when applying for renewal of certification. The affidavit shall be in the format provided by division staff.
- b. Pro-ration of CE requirement. An instructor whose certificate expires less than one year from the effective date of certification shall complete CE on a pro-rated basis at the rate of at least one CE credit for every two months the instructor has been certified. In subsequent renewal periods, the instructor shall complete the normal 12-hour CE requirement. Pro-ration of the CE requirement does not apply to an instructor who previously held certification and allowed his/her certification to lapse.
- c. Extension of CE requirements. An instructor seeking renewal of certification who has not fully complied with the CE requirements may request an extension of the CE requirements under the following conditions:
 - (1) The instructor submits a written statement to the board, explaining the facts regarding non-compliance and requesting an extension of the requirements no later than the September 1st preceding the October 31st expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the instructor to complete the CE requirement.
 - (2) The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the instructor has been unable to devote sufficient hours to fulfill the requirements during the renewal period because of:
 - (a) full-time service in the armed forces of the United States during a substantial part of the renewal period;
 - (b) an incapacitating illness documented by a statement from a currently licensed health care provider;
 - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or
 - (d) any other special circumstances the board deems appropriate.
 - (3) An instructor whose certificate has been suspended or revoked by the board is not eligible to request an extension of the CE requirement.
 - (4) The board or division staff may request documentation or additional information from an instructor applying for renewal to verify compliance with the CE requirements. If the instructor fails to provide the requested documentation or additional information, the

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

- d. Random audits of CE compliance. During each renewal review period, the board shall direct division staff to randomly select 20 percent of instructors to demonstrate CE requirement compliance through submission of proof of CE participation. Refusal or failure to respond to a board or division staff request for audit documentation of CE compliance may result in denial of renewal of certification or disciplinary action pursuant to ACJA § 7-201(H) and this section.
- e. An instructor who falsifies documents or misrepresents attendance or an activity is subject to any or all of the following actions of the board:
 - (1) Denial of renewal of certification; and
 - (2) Disciplinary action pursuant to ACJA § 7-201(H), § 7-205, and/or this CE policy.

9. Board Decision Regarding CE Compliance.

- a. Upon a review of CE documentation and any applicable additional information requested, the board may:
 - (1) Recognize instructor compliance with the CE requirement;
 - (2) Require additional information from the instructor seeking renewal before making a decision;
 - (3) Recognize partial compliance with the requirement and order remedial measures; or
 - (4) Enter a finding of non-compliance.
- b. The division staff shall promptly notify the instructor, in writing, of the board's decision. An instructor may appeal the decision by submitting a written request for review to division staff within fifteen days of receipt of notification of the board's decision. The instructor requesting review may request to appear before the board at the next available regularly scheduled board meeting.
- c. The certification of an instructor who timely appeals a decision by the board regarding CE 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.

Arizona Revised Statutes (ARS)

28-695. Aggressive driving; violation; classification; definition

A. A person commits aggressive driving if both of the following occur:

- 1. During a course of conduct the person commits a violation of either section 28-701, subsection A or section 28-701.02 and at least two of the following violations:
 - (a) Failure to obey traffic control devices as provided in section 28-644.
 - (b) Overtaking and passing another vehicle on the right by driving off the pavement or main traveled portion of the roadway as provided in section 28-724.
 - (c) Unsafe lane change as provided in section 28-729.
 - (d) Following a vehicle too closely as provided in section 28-730.

- (e) Failure to yield the right-of-way as provided in article 9 of this chapter.
- 2. The person's driving is an immediate hazard to another person or vehicle.
- B. A person convicted of aggressive driving is guilty of a class 1 misdemeanor.
- C. In addition to any other penalty prescribed by law:
 - 1. A person convicted of a violation of this section shall attend and successfully complete approved traffic survival school training and educational sessions that are designed to improve the safety and habits of drivers and that are approved by the department.
 - 2. The court shall forward the abstract of conviction to the department and may order the department to suspend the person's driving privilege for thirty days.
- D. If a person who is convicted of a violation of this section has been previously convicted of a violation of this section within a period of twenty-four months:
 - 1. The person is guilty of a class 1 misdemeanor.
 - 2. In addition to any other penalty prescribed by law, the court shall forward the abstract of conviction to the department. On receipt of the abstract of conviction, the department shall revoke the driving privilege of the person for one year.
- E. The dates of the commission of the offense determine whether subsection D of this section applies. A second or subsequent violation for which a conviction occurs as provided in this section does not include a conviction for an offense arising out of the same series of acts.
- F. For the purposes of this section "course of conduct" means a series of acts committed during a single, continuous period of driving.

28-701. Reasonable and prudent speed; prima facie evidence; exceptions

- A. A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. A person shall control the speed of a vehicle as necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.
- B. Except as provided in subsections C and D of this section or except if a special hazard requires a lesser speed, any speed in excess of the following speeds is prima facie evidence that the speed is too great and therefore unreasonable:
 - 1. Fifteen miles per hour approaching a school crossing.
 - 2. Twenty-five miles per hour in a business or residential district.
 - 3. Sixty-five miles per hour in other locations.
- C. The speed limits prescribed in this section may be altered as authorized in sections 28-702 and 28-703.
- D. The maximum speed provided in this section is reduced to the speed that is reasonable and prudent under the conditions and with regard to the actual and potential hazards then existing, including the following conditions:
 - 1. Approaching and crossing an intersection or railroad crossing.
 - 2. Approaching and going around a curve.
 - 3. Approaching a hillcrest.
 - 4. Traveling on a narrow or winding roadway.
 - 5. A special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
- E. A person shall not drive a motor vehicle at a speed that is less than the speed that is reasonable and prudent under existing conditions.

28-724. Overtaking on the right

A. The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn.
2. On a street or highway with unobstructed pavement that is not occupied by parked vehicles and that is of sufficient width for two or more lines of moving vehicles in each direction.
3. On a one-way street or on a roadway on which traffic is restricted to one direction of movement and if the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle on the right only under conditions permitting the movement in safety. The driver shall not make the movement by driving off the pavement or main traveled portion of the roadway.

28-726. Limitations on driving to left of roadway center

A. A person shall not drive a vehicle to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or on a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
2. When approaching within one hundred feet of or traversing any intersection or railroad grade crossing or where appropriate signs or markings have been installed to define a no passing zone.
3. When the view is obstructed on approaching within one hundred feet of any bridge, viaduct or tunnel.

B. The limitations provided in this section do not apply on a one-way roadway.

28-775. Authorized emergency vehicles; approaching; following fire apparatus; defensive driving schools; driver license examinations

A. Except when otherwise directed by a police officer, on the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting a red or red and blue light or lens visible under normal atmospheric conditions from a distance of five hundred feet to the front of the vehicle and that is giving an audible signal by siren, exhaust whistle or bell, the driver of another vehicle shall:

1. Yield the right-of-way.
2. Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection.
3. Stop and remain in the position prescribed in paragraph 2 of this subsection until the authorized emergency vehicle has passed.

B. An authorized emergency vehicle being operated with activated emergency lights and siren is exempt from the requirements of this section.

C. The driver of a vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet or drive into or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

D. When a police vehicle is giving a visual signal with at least one lighted red or red and blue light or lens and is giving an audible signal by siren, the driver of another vehicle:

1. Shall not approach or drive parallel to the police vehicle.
2. Shall maintain a distance of at least three hundred feet behind any police vehicle involved in an emergency until the police vehicle moves to the lane closest to the right-hand edge or curb of the roadway.

E. If a person who drives a vehicle approaches a stationary authorized emergency vehicle and the authorized emergency vehicle is giving a signal by displaying alternately flashing red or red and blue lights, the person shall do either of the following:

1. If on a highway having at least four lanes with at least two lanes proceeding in the same direction as the approaching vehicle, proceed with due caution and if possible, with due regard to safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle.
2. If changing lanes would be impossible or unsafe, proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions.

28-776. Funeral procession right-of-way; funeral escort vehicles; certification; fee; definition

A. Pedestrians and the operators of all vehicles, except emergency vehicles, shall yield the right-of-way to each vehicle that is a part of a funeral procession being led by a funeral escort vehicle. The driver of the funeral escort vehicle may direct the drivers of other vehicles in the procession to proceed through any intersection or to make turns or other movements, and the other vehicles may continue to follow and make the turns or other movements as are made by or as directed by the driver of the funeral escort vehicle notwithstanding any traffic control device prescribed by statute or local ordinance, except that a driver of a vehicle in the funeral procession shall not exceed the posted speed limit and shall exercise reasonable and prudent care to avoid colliding with any other vehicle or pedestrian on the roadway. Each vehicle in a funeral procession shall have its headlights lighted.

28-792. Right-of-way at crosswalk

A. Except as provided in section 28-793, subsection B, if traffic control signals are not in place or are not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be in order to yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is on the half of the roadway on which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. A pedestrian shall not suddenly leave any curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the driver to yield.

B. If a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of another vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

28-793. Crossing at other than crosswalk

A. A pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway.

B. A pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles on the roadway.

C. Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

28-794. Drivers to exercise due care

Notwithstanding the provisions of this chapter every driver of a vehicle shall:

1. Exercise due care to avoid colliding with any pedestrian on any roadway.

2. Give warning by sounding the horn when necessary.
3. Exercise proper precaution on observing a child or a confused or incapacitated person on a roadway.

28-797. School crossings; civil penalty; assessment; definition

E. A vehicle approaching the crosswalk shall not proceed at a speed of more than fifteen miles per hour between the portable signs placed on the highway indicating "school in session" and "stop when children are in crosswalk".

28-854. Railroad grade crossing; moving heavy equipment; exception; definition

A. A person shall not operate or move any heavy equipment on or across a track at a railroad grade crossing unless:

1. Notice of the intended crossing is given to a station agent of the railroad.
2. Before making the crossing, the person operating or moving the vehicle or equipment:
 - (a) Stops the vehicle or equipment at least fifteen feet but not more than fifty feet from the nearest rail of the railroad.
 - (b) While so stopped, listens and looks in both directions along the track for an approaching train and for signals indicating the approach of a train.
3. Does not proceed until the crossing can be made safely.

B. A person shall not make a crossing pursuant to this section when a warning is given by automatic signal, crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the flagman's direction.

C. This section does not apply to the normal movement of farm equipment in the regular course of a farm operation.

D. For the purposes of this section, "heavy equipment" means any crawler type tractor, steam shovel, derrick, roller or other equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches measured above the level surface of a roadway.

28-856. Emerging from alley, driveway or building

The driver of a vehicle emerging from an alley, driveway or building within a business or residence district shall:

1. Stop the vehicle immediately before driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway.
2. Yield the right-of-way to any pedestrian as necessary to avoid collision.
3. On entering the roadway, yield the right-of-way to all closely approaching vehicles on the roadway

28-857. School bus signs; overtaking and passing school bus; violation; driver license suspension; civil penalty

A. On meeting or overtaking from either direction a school bus that has stopped on the highway, the driver of a vehicle on a highway shall:

1. Stop the vehicle before reaching the school bus, if the school bus is displaying the signal as provided in subsection D and if alternately flashing lights are in use.
2. Not proceed until the school bus resumes motion or the signal and alternately flashing lights are no longer displayed.

B. A bus used for the transportation of school children shall have on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height.

C. A school bus operated on a highway shall cover or conceal all markings indicating "school bus" unless the bus is operated for the transportation of children to or from any of the following:

1. School.
2. School sponsored academic activities.
3. School sponsored vocational and technological education.
4. School sponsored athletic trips.
5. School sponsored extracurricular activities.

D. A bus used for the transportation of school children shall have a signal with the word "stop" printed on both sides in white letters not less than five inches high on a red background. The signal shall be an eighteen inch reflectorized octagon. The operator of the school bus shall:

1. Manually operate the signal in a manner so that the signal is clearly visible from both front and rear when extended from the left of the body of the bus.
2. Display the signal and alternately flashing lights if passengers are being received or discharged while the bus is stopped on the roadway.

E. The driver of a vehicle on a highway with separate roadways need not stop on meeting or passing a school bus that is:

1. On a different roadway.
2. On a controlled access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

F. For the purposes of subsection E, a lane or group of lanes on either side of a two-way left turn lane is not considered a separate roadway.

G. A person who is responsible for a violation of subsection A of this section is subject to a civil penalty as follows:

1. The court shall impose a minimum civil penalty of two hundred fifty dollars for the first violation.
2. If a person violates this section a second time within a period of thirty-six months, the court shall impose a minimum civil penalty of seven hundred fifty dollars and shall direct the department to suspend the driver license of the person for not more than six months.
3. If a person violates this section three or more times within a period of thirty-six months, the court shall impose a minimum civil penalty of one thousand dollars and shall direct the department to suspend the driver license of the person for at least six months but not more than one year.

28-857.01. Overtaking and passing school bus; report by school bus operator; notification letter

A. The operator of a school bus who observes a violation of section 28-857, subsection A may prepare a signed written report that indicates that a violation occurred. The report shall include:

1. The date, time and approximate location of the violation.
2. The number and state of issuance of the license plate on the vehicle involved in the violation.
3. Identification of the vehicle as an automobile, a station wagon, a truck, a bus, a motorcycle or any other type of vehicle.
4. The color of the vehicle involved in the violation.

B. Within two days after the violation occurs, excluding weekends and holidays, the school bus operator shall send a copy of the report to the director. On receiving the report, the director shall promptly mail a notification letter to the last known registered owner of the vehicle. The letter shall include:

1. A notification containing the information included in the bus operator's report and stating that a vehicle registered in the vehicle owner's name was observed passing a school bus loading and unloading children.
2. A complete explanation of the provisions of section 28-857.

3. An explanation that the notification letter is not a police citation but is an effort to call attention to the seriousness of the incident.

28-909. Vehicle restraints required; exceptions; civil penalty

A. Each front seat occupant of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall either:

1. Have the lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
2. If only a lap belt is installed where the occupant is sitting, have the lap belt properly adjusted and fastened while the vehicle is in motion.

B. The operator of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall require each passenger under sixteen years of age to either:

1. Have the lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
2. If only a lap belt is installed where the passenger is sitting, have the lap belt properly adjusted and fastened while the vehicle is in motion.

28-1321. Implied consent; tests; refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; special ignition interlock restricted driver license

A. A person who operates a motor vehicle in this state gives consent, subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph 33 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:

1. While under the influence of intoxicating liquor or drugs.
2. If the person is under twenty-one years of age, with spirituous liquor in the person's body.

B. After an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section, and if the violator refuses the violator shall be informed that the violator's license or permit to drive will be suspended or denied for twelve months, or for two years for a second or subsequent refusal within a period of eighty-four months, unless the violator expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal. The violator shall also be informed that if the test results show a blood or breath alcohol concentration of 0.08 or more, or if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days.

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or 28-1383.

D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:

1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant.
2. The law enforcement officer directing the administration of the test shall:
 - (a) File a certified report of the refusal with the department.
 - (b) On behalf of the department, serve an order of suspension on the person that is effective fifteen days after the date the order is served.
 - (c) Require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.
 - (d) If the license or permit is not surrendered, state the reason why it is not surrendered.
 - (e) If a valid license or permit is surrendered, issue a temporary driving permit that is valid for fifteen days.
 - (f) Forward the certified report of refusal, a copy of the completed notice of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the notice of suspension.

E. The certified report is subject to the penalty for perjury as prescribed by section 28-1561 and shall state all of the following:

1. The officer's reasonable grounds to believe that the arrested person was driving or in actual physical control of a motor vehicle in this state either:
 - (a) While under the influence of intoxicating liquor or drugs.
 - (b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.
2. The manner in which the person refused to submit to the test or tests.
3. That the person was advised of the consequences of refusal.

F. On receipt of the certified report of refusal and a copy of the order of suspension and on the effective date stated on the order, the department shall enter the order of suspension on its records unless a written request for a hearing as provided in this section has been filed by the accused person. If the department receives only the certified report of refusal, the department shall notify the person named in the report in writing sent by mail that:

1. Fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege.
2. The department will provide an opportunity for a hearing if the person requests a hearing in writing and the request is received by the department within fifteen days after the notice is sent.

G. The order of suspension issued by a law enforcement officer or the department under this section shall notify the person that:

1. The person may submit a written request for a hearing.
2. The request for a hearing must be received by the department within fifteen days after the date of the notice or the order of suspension will become final.
3. The affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege will be suspended for twelve months from that date or for two years from that date for a second or subsequent refusal within a period of eighty-four months.

H. The order for suspension shall:

1. Be accompanied by printed forms that are ready to mail to the department and that may be filled out and signed by the person to indicate the person's desire for a hearing.

2. Advise the person that unless the person has surrendered any driver license or permit issued by this state the person's hearing request will not be accepted, except that the person may certify pursuant to section 28-3170 that the license or permit is lost or destroyed.

I. On the receipt of a request for a hearing, the department shall set the hearing within thirty days in the county in which the person named in the report resides unless the law enforcement agency filing the certified report of refusal pursuant to subsection D of this section requests at the time of its filing that the hearing be held in the county where the refusal occurred.

J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue and retain a license or permit subject to this section.

K. Hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the issues of whether:

1. A law enforcement officer had reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The person was placed under arrest.

3. The person refused to submit to the test.

4. The person was informed of the consequences of refusal.

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of twelve months after the order of suspension becomes effective or for a period of two years after the order of suspension becomes effective for a second or subsequent refusal within a period of eighty-four months.

M. If the suspension order is sustained after the hearing, a motion for rehearing is not required. Within thirty days after a suspension order is sustained, the affected person may file a petition in the superior court to review the final order of suspension or denial by the department in the same manner provided in section 28-3317. The court shall hear the review of the final order of suspension or denial on an expedited basis.

N. If the suspension or determination that there should be a denial of issuance is not sustained, the ruling is not admissible in and has no effect on any administrative, civil or criminal court proceeding.

O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

P. After completing not less than ninety consecutive days of the period of suspension required by this section, a person whose driving privilege is suspended pursuant to this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401. Unless the certified ignition interlock period is extended by the department pursuant to section 28-1402, a person

who is issued a special ignition interlock restricted driver license as provided in this subsection shall maintain a functioning certified ignition interlock device in compliance with this chapter during the remaining period of the suspension prescribed by this section. This subsection does not apply to a person whose driving privilege is suspended for a second or subsequent refusal within a period of eighty-four months or a person who within a period of eighty-four months has been convicted of a second or subsequent violation of article 3 of this chapter or section 4-244, paragraph 33 or an act in another jurisdiction that if committed in this state would be a violation of article 3 of this chapter or section 4-244, paragraph 33.

28-1381. Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification

A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state under any of the following circumstances:

1. While under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances if the person is impaired to the slightest degree.
2. If the person has an alcohol concentration of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.
3. While there is any drug defined in section 13-3401 or its metabolite in the person's body.
4. If the vehicle is a commercial motor vehicle that requires a person to obtain a commercial driver license as defined in section 28-3001 and the person has an alcohol concentration of 0.04 or more.

28-1382. Driving or actual physical control while under the extreme influence of intoxicating liquor; trial by jury; sentencing; classification

(L07, Ch. 219, sec. 2)

A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state if the person has an alcohol concentration of 0.15 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.

B. A person who is convicted of a violation of this section is guilty of driving or being in actual physical control of a vehicle while under the extreme influence of intoxicating liquor.

28-3392. Defensive driving school; eligibility

A. A court:

1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6 through 15 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.
2. Except as prescribed in subsection C of this section, may allow an individual who is issued a citation for a violation of section 28-701.02 to attend a defensive driving school.

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 months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.

C. Notwithstanding subsection A of this section:

1. An individual who commits a civil or criminal traffic violation resulting in death or serious physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.
2. If a commercial driver license holder is found guilty or responsible for a moving violation, the court may require the violator to attend defensive driving school as an element of sentence, but may not dismiss the conviction or finding of responsibility and shall report the conviction or finding of responsibility to the department as prescribed in section 28-1559. A commercial driver license holder is not eligible for the defensive driving diversion program.

28-3395. Supreme court authority and duties; rules; record

B. The supreme court shall:

1. Supervise the use of defensive driving schools by the courts in this state.
2. Make public the amount of the court diversion fee assessed by each court in this state pursuant to this article and the total cost to attend a defensive driving school in each court.
3. Establish an automated statewide database for keeping a record of persons who attend a defensive driving school.
4. Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts.
5. Establish procedures for courts and schools to remit reports that are required by the supreme court.
6. Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion program.
7. Require that a defensive driving school class not exceed a total of four and one-half hours, including any testing, reviewing and grading related to the defensive driving school class.

ALSO:

Arizona Driver License Manual (and Customer Service Guide)

<http://www.azdot.gov/mvd/MenuFormsandPubs.asp>

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