

DEFENSIVE DRIVING BOARD

Meeting Agenda - Thursday, August 20, 2015

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 – 10:00 A.M. – Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).

CALL TO ORDER *Daniel Edwards, Chair*

1) REVIEW AND APPROVAL OF MINUTES *Daniel Edwards, Chair*

1-A: Review, discussion, and possible action regarding the regular session minutes for the meeting of June 23, 2015.

2) INITIAL CERTIFICATION AND ELIGIBILITY.....*Division Staff*

2-A: Review, consideration, and possible action regarding pending initial certification of the following defensive driving schools:

1. Green Light Traffic School (Live or Online Video Classes)
2. Green Light A+ Rated Traffic School (Live or Online Video Classes)
3. Green Light Defensive Driving School (Live or Online Video Classes)
4. Green Light 4 Hour Traffic School (Live or Online Video Classes)

2-B: Review, consideration, and possible action regarding pending initial certification of the following applicant for defensive driving instructor certification:

Charles Nelson

3) PENDING COMPLAINTS.....*Division Staff*

3-A: Review, discussion and possible action regarding complaint number 14-D018, involving Low Cost Defensive Driving.

- 3-B: *Review, discussion and possible action regarding complaint number 15-D001, involving All Over AZ Traffic School.*
- 3-C: *Review, discussion and possible action regarding complaint number 15-D005, involving Payless EZ Speedy Arizona Online Defensive Driving.*
- 3-D: *Review, discussion and possible action regarding complaint number 15-D003, involving Go and Learn Traffic School.*
- 3-E: *Review, discussion and possible action regarding Findings of Fact, Conclusions of Law and Recommendation in complaint number 14-D011, involving Michael Noonan.*
- 3-F: *Review, discussion and possible action regarding complaint number 15-D002, involving 2 Pass Defensive Driving.*
- 3-G: *Update regarding disciplinary action regarding complaint number 14-D014/14-D015 and 14-D017 involving 2 Pass Defensive Driving.*
- 3-H: *Review, discussion and possible action regarding complaint number 14-D016 involving Easy Simple Fun Defensive Driving.*
- 3-I: *Update regarding the status of pending complaints.*

4) ADMINISTRATIVE ISSUESDivision Staff

- 4-A: *Review, discussion and possible action regarding the certification renewal application deadline pursuant to ACJA § 7-201(G)(2).*

5) SUBCOMMITTEE CONCERNING SCHOOL NAMESDivision Staff

- 5-A: *Update on subcommittee concerning defensive driving school names.*

CALL TO THE PUBLIC Daniel Edwards, Chair

ADJOURN Daniel Edwards, Chair

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1) REVIEW AND APPROVAL OF MINUTES

1-A: Review, discussion, and possible action regarding the regular session minutes for the meeting of June 23, 2015.

Attached for Board review and approval are the regular session minutes of the June 23, 2015 meeting.

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2) INITIAL CERTIFICATION AND ELIGIBILITY

2-A: *Review, consideration, and possible action regarding pending initial certification of the following defensive driving schools:*

1. Green Light Traffic School (Live or Online Video Classes)
2. Green Light A+ Rated Traffic School (Live or Online Video Classes)
3. Green Light Defensive Driving School (Live or Online Video Classes)
4. Green Light 4 Hour Traffic School (Live or Online Video Classes)

The above classroom and internet format defensive driving schools applied for certification on April 3, 2015. The schools' offices are located in Phoenix, Arizona. The schools' owners are Bill Riedel and Michelle Riedel. The schools' designated principal is Bill Riedel. The schools are also known as Tucson Defensive Driving School, Drive Right, LLC, Arizona Academy of Defensive Driving, Roadrunner Traffic School, Drive Smart University, Got a Ticket? Defensive Driving School, Arizona's Best Defensive Driving School, Comedy Traffic School, and Rush Hour Traffic School.

Division staff has performed a review of the new schools' applications and curricula.

A background check revealed a Better Business Bureau complaint had been filed on Comedy Traffic School, a school the applicant owns and operates (as noted above).

On May 26, 2015, an email was sent to the principal requesting more information on this matter. The principal responded on May 28, 2015, indicating the complaint involved a refund and was resolved to the customer's satisfaction, which is corroborated by the Better Business Bureau's report.

Per ACJA § 7-201(E)(2)(c)(2)(b)(xv), the Board may deny certification of any applicant if one or more of the following is found:

(Applicant) failed to disclose information on the certification application subsequently revealed through the background check.

The applicant has stated by email that they did not include the aforementioned complaint as they had used a template from a previous application for one of their other schools, and did not recall the relevant question in Section VII of the application regarding being contacted by the Better Business Bureau. Staff has considered that the applicant addressed the complaint appropriately.

On June 23, 2015, before the board meeting, Division staff received information regarding a possible federal tax lien filed against Bill and Michelle Riedel. Staff recommended the board defer consideration of the applications to the next meeting in order to investigate.

On July 9, 2015, a telephonic interview with Mr. Riedel and his attorney, Stephen McFarlane, was conducted by staff. Mr. Riedel and Mr. McFarlane confirmed the existence of the tax lien, and Mr. Riedel stated that he had been working with the Internal Revenue Service to settle the matter. Mr. Riedel further stated that the tax lien in no way impacted his businesses.

On August 4, 2015, staff received an email from Mr. Riedel with an attached copy of IRS Form 12257, Summary Notice of Determination, Waiver of Right to Judicial Review of a Collections Due Process Determination, Waiver of Suspension of Levy Action, and Waiver of Periods of Limitation in Section 6330(e)(1). This is an Office of Appeals document. The appeals officer handling the case for the IRS, James Wood, stated on the document that the tax lien is not sustained and approved withdrawal of the filed Notice of Federal Tax Lien.

On August 7, 2015, staff received an email from Mr. Riedel with an attached copy of a letter from the Internal Revenue Service stating that the withdrawal of the tax lien had been approved by Appeals. A copy of IRS Form 10916, Withdrawal of Filed Notice of Federal Tax Lien was also attached to the email. The form was signed by the Director of Specialty Collections of the Internal Revenue Service.

Staff reviewed the circumstances of the tax lien and the subsequent withdrawal of the lien, and in the opinion of staff, these circumstances do not suggest that fraud or misrepresentation occurred. Mr. Riedel has been forthcoming with information and responded promptly to requests. Staff recommends initial certification be granted to Green Light Traffic School (Live or Online Video Classes), Green Light A+ Rated Traffic School (Live or Online Video Classes), Green Light Defensive Driving School (Live or Online Video Classes) and Green Light 4 Hour Traffic School (Live or Online Video Classes).

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2-B: Review, consideration, and possible action regarding pending initial certification of the following applicants for defensive driving instructor certification:

Charles Nelson

The following applicant has submitted an application for initial certification. In the opinion of staff, the application is complete and no information has been presented during the background which is contrary to certification being granted. The applicant has demonstrated he meets the minimum eligibility requirements for certification. It is recommended initial certification be granted to the following individual:

Charles Nelson

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3) PENDING COMPLAINTS

3-A: Review, discussion and possible action regarding complaint number 14-D018 involving Low Cost Defensive Driving.

On December 17, 2014, the Division received a written complaint against Low Cost Defensive Driving containing the following allegation:

Low Cost Defensive Driving failed to timely submit a court fee to Country Meadows Justice Court.

The matter was investigated and upon completion of that investigation, the Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On August 5, 2015, Probable Cause Evaluator Baumstark entered a finding that probable cause does not exist as to Allegation 1.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Low Cost Defensive Driving has not committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 14-D018.

It is further recommended the Board dismiss complaint number 14-D018.

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3) PENDING COMPLAINTS

3-B: Review, discussion, and possible action regarding complaint number 15-D001 involving All Over AZ Traffic School.

On February 10, 2015, the Division received a written complaint against All Over AZ Traffic School containing the following allegation:

Complainant alleges All Over AZ Traffic School failed to timely report a student's completion causing the student's license to become suspended.

The matter was investigated and upon completion of that investigation, the Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On July 14, 2015, Probable Cause Evaluator Baumstark entered a finding that probable cause exists as to Allegation 1.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding All Over AZ Traffic School has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-D001.

It is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA §§ 7-205(F)(27)(f) and 2-705(F)(28)(f)(2) for failure to timely enter completion data into DDTS and for failure to timely remit a diversion fee to the municipal court.

It is further recommended the Board issue a Letter of Concern.

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3) PENDING COMPLAINTS

3-C: Review, discussion, and possible action regarding complaint number 15-D005 involving Payless EZ Speedy Arizona Online Defensive Driving.

On June 16, 2015, the Division received a written complaint against Payless EZ Speedy Arizona Online Defensive Driving containing the following allegation:

Complainant alleges Payless EZ Speedy Arizona Online Defensive Driving failed to timely submit a court fee to the Country Meadows Justice Court.

Payless's principal, Mozafari stated in the response that the check was not mailed due to an internal miscommunication but when notified by Country Meadows they took immediate action to process a new check.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Payless EZ Speedy Arizona Online Defensive Driving has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-D005.

It is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA §§ 7-205(F)(19) and 7-205(F)(28)(f)(2) by failing to timely remit a diversion fee to the Country Meadows Justice Court.

It is further recommended the Board issue a Letter of Concern.

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3) PENDING COMPLAINTS

3-D: Review, discussion, and possible action regarding complaint number 15-D003 involving Go and Learn Traffic School.

On March 31, 2015, the Division received a written complaint against Go and Learn Traffic School containing the following allegation:

Complainant alleges Go and Learn Traffic School did not submit payment to the Court for the court diversion fee and surcharge until almost one month after the student completed the defensive driving course.

The matter was investigated and upon completion of that investigation, the Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On June 25, 2015, Probable Cause Evaluator Baumstark entered a finding that probable cause exists as to Allegation 1.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Go and Learn AZ Traffic School has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-D003.

It is recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA § 7-205(F)(19) and 7-205(F)(28)(f)(2) by failing to timely remit a diversion fee to the Country Meadows Justice Court.

It is further recommended the Board issue a Letter of Concern.

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3) PENDING COMPLAINTS

3-E: Review, discussion and possible action regarding Findings of Fact, Conclusions of Law and Recommendation in complaint number 14-D011, involving Michael Noonan.

This complaint was initially presented to the Board on June 23, 2015, at which time the Board accepted staff's recommendation and the Probable Cause Evaluator's determination that Michael Noonan violated ACJA § 7-205(J)(2)(b)(5)(a) by conducting himself in an unprofessional manner when, while on a business trip after teaching a defensive driving class, circulated personal information regarding third parties with the intent to cause harm. The Board imposed formal discipline in the form of revocation in complaint number 14-D011.

On July 13, 2015, the Board filed the Notice of Formal Statement of Charges in complaint number 14-D011 involving Michael Noonan. Division records reflect Mr. Noonan was served on July 14, 2015.

No answer or request for hearing was filed by Mr. Noonan. Staff recommends that the Board find Mr. Noonan in default and enter a final order revoking his defensive driving certification.

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3) PENDING COMPLAINTS

3-F: Review, discussion, and possible action regarding complaint number 15-D002 involving 2 Pass Defensive Driving.

On March 12, 2015, the Division received a written complaint against 2 Pass Defensive Driving containing the following allegation:

Complainant alleges 2 Pass Defensive Driving failed to report a student's course completion which resulted in a court "default" and subsequent license suspension.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding 2 Pass Defensive Driving and Gordon Fox have committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-D002.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA § 7-205(F)(28)(f)(2) by failing to timely remit a diversion payment to Tempe Municipal Court.

2 Pass Defensive Driving and Gordon Fox have been previously disciplined for the same type conduct and were suspended for 30 days. (*See* complaints number 14-D014 and 14-D017).

Staff notes the prior discipline for same type of conduct and recognizes that 2 Pass Defensive Driving and Gordon Fox may not have had time to remedy any underlying business cause resulting in the failure to timely remit the payment. Staff also notes that 2 Pass Defensive Driving and Gordon Fox were argumentative with Tempe Municipal Court staff when that staff attempted to remedy the situation for the benefit of the driver/student.

It is further recommended the Board issue a Censure to 2 Pass Defensive Driving and Gordon Fox.

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3) PENDING COMPLAINTS

3-G: Update regarding disciplinary action regarding complaint number 14-D014/14-D015 and 14-D017 involving 2 Pass Defensive Driving.

Division staff will provide an update at the Board meeting.

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3) PENDING COMPLAINTS

3-H: Review, discussion and possible action regarding complaint number 14-D016 involving Easy Simple Fun Defensive Driving.

On October 20, 2014, the Division received a written complaint against Easy Simple Fun Defensive Driving School containing the following allegation:

Complainant alleges that after completing the online course test, the wording on the last page demanded that he pay an additional fee to download his certificate of completion.

The matter was investigated and it was found that Easy Simple Fun Defensive Driving failed to provide the complainant with a code compliant receipt or completion certificate upon completion of the class and further refused to provide a code compliant receipt or completion certificate after complainant specifically requested one. Additionally, the investigation revealed that it appeared that the school was attempting to generate income from completion certificates by offering the certificates for sale before providing students with a code mandated receipt.

Upon completion of the investigation, the Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On August 12, 2015, Probable Cause Evaluator Baumstark entered a finding that probable cause exists as to Allegation 1.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Easy, Simple, Fun Defensive Driving School has committed the alleged act of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 14-D016.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) for act(s) of misconduct involving violation of ACJA § 7-205(F)(25)(d)(4)(e) by failing to readily provide a receipt to individuals that successfully completed a diversion class and instead developing a system that encouraged successful students to pay for a receipt.

It is further recommended the Board suspend Easy Simple Fun Defensive Driving certification for a period of 30 days. The suspension shall prohibit Easy Simple Fun Defensive Driving from registering any new students but shall not prohibit Easy Simple Fun Defensive Driving from completing the diversion process for any student registered prior to the date of suspension. It is further recommended that Easy Simple Fun Defensive Driving be placed on probation for a period of six months the terms of which are that Easy Simple Fun Defensive Driving on a monthly basis

report to the Certification and Licensing Division any student inquiries or complaints concerning issues related to receipts.

Aggravating factors in this case are:

1. Selfish motive
2. Refusal to acknowledge wrongful nature of the conduct
3. Experience in the profession

There are no mitigating factors.

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3) PENDING COMPLAINTS

3-I: Update regarding the status of pending complaints.

As of August 13, 2015, there are 13 open complaints, six of which have been presented on this agenda with dispositive recommendations under agenda items 3-A through 3-D, 3-F and 3-H.

DEFENSIVE DRIVING COMPLAINTS
COURTOOLS MEASURE 4
AGE OF PENDING CASELOAD
Shaded Areas Indicate Cases within Time Standard of 22 Months

Age (Months)	Number Cases	Percent	Cumulative Percent
0-4	6	46%	46%
5-9	4	31%	77%
10-14	3	23%	100%
15-19			
20-22			
23-35			
36-50			
Over 50			
Total	13	100%	100%

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4) ADMINISTRATIVE ISSUES

4-A: Review, discussion and possible action regarding the certification renewal application deadline pursuant to ACJA § 7-201(G)(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 renewal application.

Active certificates expire at midnight on October 31st of each odd numbered year.

The Division recommends that the Board establish renewal application period starting September 1 through October 31, 2015. Division staff further recommends that applications submitted on or after October 1, 2015 be assessed an additional \$50.00. In the event that a certificate holder has filed a timely and complete application for renewal, the existing certification does not expire until the Board has acted on the application for renewal of certification.

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5) SUBCOMMITTEE CONCERNING SCHOOL NAMES

5-A: Update on subcommittee concerning defensive driving school names.

Division staff will provide information at the Board meeting.