



Arizona Supreme Court Defensive Driving Board

Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007-3222
Conference Room 109

Date: December 16, 2009
Time: 10:00 a.m. – 2:00 p.m.

Approved Regular Meeting Minutes

MEMBER ATTENDANCE

Present:

Judge Gary J. LaFleur
Robert G. A. Hall
Virginia Davis
Rolland (Ron) E. DeLong
Elaine Acosta Sweet

Telephonically Present:

Judge Daniel S. Jurkowitz
Lynette Rudow
Leonard Montanaro
Pamela K. Najera

Absent:

Steven Soldis
Cecile T. Woodward

OTHER ATTENDEES

AOC Staff:

Kitty Boots
Nancy Swetnam
Kandace French
Kimberly Siddall
Linda Grau
Jennifer Greene
Bonnie Toms
Chris DeWitt
Tony Posante
Becky Sorenson
Lori Braddock
Richard Frohm

Guests:

Bea Mena
Rey Granillo
Debra Grossman
Amina Clark
Bill Riedel
Carl Rees
Rita Allen
Paul Hallums

CALL TO ORDER

Called to Order By: Judge Gary J. LaFleur

Time: 10:02 a.m.

1) REVIEW AND APPROVAL OF MINUTES

1-A: Review, discussion and possible approval of the Regular Session Minutes for the meeting of October 21, 2009.

Individuals Addressing the Board: Judge Gary J. LaFleur

Discussion: No discussion.

Motion: Move to approve the Regular Session Minutes for the meeting of October 21, 2009.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Robert G. A. Hall

Motion Results: Pass

1-B: Review, discussion and possible approval of the Executive Session Minutes for the meeting of October 21, 2009.

Individuals Addressing the Board: Judge Gary J. LaFleur

Discussion: No discussion.

Motion: Move to approve the Executive Session Minutes for the meeting of October 21, 2009.

Motion Proposals: First Leonard Montanaro
Second Elaine Acosta Sweet

Motion Results: Pass

2) REVIEW OF PENDING COMPLAINTS

2-A: Review, discussion, and possible action regarding following complaint numbers:

Individuals Addressing the Board: Linda Grau, Tony Posante

Complaint Number 09-D005 – ArizonaDriver.com

Discussion: On November 9, 2009, Probable Cause Evaluator Mike Baumstark entered a finding probable cause does not exist in complaint number 09-D005. Staff recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 09-D005. Discussion included the composition of environmental questions, possible technical problems with the test, accumulative problems with the school, and their corporation status.

Motion: Board moved to accept the findings of Probable Cause Evaluator Mike Baumstark and dismiss complaint number 09-D005.

Motion Proposals: First Leonard Montanaro
Second Elaine Acosta Sweet

Motion Results: Pass

Complaint Number 09-D007 – ArizonaDriver.com

Individuals Addressing the Board: Linda Grau, Kitty Boots

Discussion: On November 9, 2009, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 09-D007. Staff recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 09-D007. Discussion included how the rules apply to the school course fee advertisements, disclosure of court fees on the website, and the possibility of having a projector set up at the next board meeting to view websites in question.

Motion: Board moved to accept the findings of Probable Cause Evaluator Mike Baumstark and dismiss complaint number 09-D007.

Motion Proposals: First Robert G. A. Hall
Second Virginia Davis
No Rolland (Ron) E. DeLong

Motion Results: Pass

Complaint Number 09-D008 – ArizonaDriver.com

Individuals Addressing the Board: Linda Grau

Discussion: On November 9, 2009, Probable Cause Evaluator Baumstark entered a finding probable cause does not exist in complaint number 09-D008. Staff recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 09-D008.

Motion: Board moved to accept the findings of Probable Cause Evaluator Mike Baumstark and dismiss complaint number 09-D008.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Pamela K. Najera

Motion Results: Pass

Motion: Move to enter into Executive session for advice of counsel.

Motion Proposals: First Judge Gary J. LaFleur
Second Pamela K. Najera

Motion Results: Pass

Executive Session: 10:29 a.m. to 10:44 a.m.

Motion: Move to reconsider Complaint Number 09-D007 and modify the action taken in conformance with the discussion held while in executive session which is confidential by rule.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Elaine Acosta Sweet

Motion Results: Pass

Individuals Addressing the Board: Judge Gary J. LaFleur

Discussion: Based upon previous discussions, Judge LaFleur would make a motion for a request to be sent to Dave Beyers to initiate a complaint.

Motion: Move to make the request to Dave Beyers as described above.

Motion Proposals: First Judge Gary J. LaFleur
Second Robert G. A. Hall

Motion Results: Pass

3) ADMINISTRATIVE ISSUES

3-A: Nomination and election of the 2010 Fiduciary Board Vice Chair.

Discussion: ACJA § 7-201 (I)(3)(b) reads:

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.

It was recommended the Board nominate and elect a Vice Chair for the 2010 calendar year. Lenard Montanaro was nominated for the position.

Motion: Move to nominate Leonard Montanaro as Vice Chair.

Motion Proposals: First Robert G. A. Hall
Second Pamela K. Najera

Motion Results: Pass

Discussion: Lenard Montanaro accepted the nomination.

Motion: Move to elect Leonard Montanaro as Vice Chair for the 2010 calendar year.

Motion Proposals: First Robert G. A. Hall
Second Pamela K. Najera

Motion Results: Pass

3-B: *Review, discussion, and possible action regarding a proposed alternative process for confirming identity of online student by Safe 2 Drive and Arizona Chapter National Safety Council.*

Individuals Addressing the Board: Chris DeWitt

Safe 2 Drive

Discussion: A request for approval of an alternative process for confirming identity of online students, and documentation was submitted to staff. The method was reviewed and tested by staff, and was recommended for approval by the Board.

Motion: Move to adopt staff recommendation.

Motion Proposals: First Robert G. A. Hall
Second Lynette Rudow

Motion Results: Pass

Arizona Chapter National Safety Council

Discussion: A request for approval of an alternative process for confirming identity of online students, and documentation was submitted to staff. The method was reviewed and tested by staff, and was recommended for approval by the Board.

Motion: Move to adopt staff recommendation.

Motion Proposals: First Elaine Acosta Sweet
Second Robert G. A. Hall
Abstain Pamela K. Najera

Motion Results: Pass

3-C: Review and discussion regarding proposed changes to ACJA § 7-205 and the Defensive Driving Program.

Individuals Addressing the Board: Judge Gary J. LaFleur

Discussion: Judge LaFleur announced Agenda Item 3-C would be tabled until later in the agenda. Division Director, Nancy Swetnam, will call in from today's Arizona Judicial Council meeting to update the Board on the proceedings.

4) REVIEW OF CERTIFICATION APPLICATIONS

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

Individuals Addressing the Board: Kimberly Siddall

Thomas C. Francis, Jr.
Jack D. Penn
Catherine H. Cenatiempo

Discussion: The defensive driving instructor applicants listed above submitted applications for certification. The applications are complete, no information was presented during the background which is contrary to certification being granted, and the applicants have demonstrated they meet the minimum eligibility requirements for certification. Staff recommended initial certification be granted.

Motion: Move to adopt staff recommendation to grant initial certification.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Robert G. A. Hall

Motion Results: Pass

Stephen J. Franz

Discussion: The defensive driving instructor applicant listed above emailed staff requesting consideration of his application be deferred to the next board meeting as details in his application have changed. Staff recommended deferral to the February 17th board meeting.

Motion: Move to adopt staff recommendation to defer consideration to the next board meeting.

Motion Proposals: First Robert G. A. Hall
Second Lynette Rudow

Motion Results: **Pass**

Robert S. Giersberg
Scott E. Smyth

Discussion: The above listed applications remain incomplete pending receipt of additional information. It was recommended these applications be deferred to the February meeting.

Motion: Move to adopt staff recommendation to defer consideration to the next board meeting.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Robert G. A. Hall

Motion Results: **Pass**

Richard W. Becker
Eloisa M. Perez
William B. Howe
Gary Montgomery
David Cyronek

Discussion: Additional information requested from applicants listed above has been received. The applications are now complete, no information was presented during the background which is contrary to certification being granted, and the applicants have demonstrated they meet the minimum eligibility requirements for certification. Staff recommended initial certification be granted.

Motion: Move to adopt staff recommendation to grant initial certification.

Motion Proposals: First Robert G. A. Hall
Second Pamela K. Najera

Motion Results: Pass

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

Individuals Addressing the Board: Kimberly Siddall

1. **Fernando Aguilar**
2. **Daniel Amparan**
3. **Lloyd Anderson**
4. **Patrice Arnout**
5. **John Auvenshine**
6. **Janice Bacich**
7. **Mario Biasiucci**
8. **Robert Bocskay**
9. **Michael Broughton**
10. **David Broughton**
11. **Kenneth Cada**
12. **Tim Carter**
13. **Allen Chaffey**
14. **Gregory Crawford**
15. **Virginia Davis**
16. **Edmund Dubiel**
17. **Ana Durazo**
18. **Fredrik Eder**
19. **Esperanza Eves**
20. **Arnulfo Gandara**

Discussion: The certificate holders listed above submitted applications for renewal of certification. The applications are complete, no information was presented during the background which is contrary to renewal of certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for certification. Staff recommended renewal of certification be granted to the above applicants numbered 1 to 20.

Motion: Move to adopt staff recommendation to grant initial certification to applicants 1 to 20 as listed above.

Motion Proposals: First Lynette Rudow
Second Robert G. A. Hall
Abstain Virginia Davis, Rolland (Ron) E. DeLong

Motion Results: Pass

21. **Juan Gandara**
22. **John Gigicon**
23. **Robert Hall**

24. *Willie Hall*
25. *David Herman*
26. *Arnoldo Hernandez*
27. *Chris Honan*
28. *Robert Horgash*
29. *E. James*
30. *DiAnne Jonas*
31. *Ellis Jones*
32. *Marvin Kuehl*
33. *Albert Lara*
34. *Elaine Lewis*
35. *Edward Lockwood*
36. *Chris Loeffler*
37. *David Mattingly*
38. *Wayne McBride*
39. *Walter Moschowsky*
40. *Hector Nava*

Discussion: The certificate holders listed above submitted applications for renewal of certification. The applications are complete, no information was presented during the background which is contrary to renewal of certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for certification. Staff recommended renewal of certification be granted to the above applicants numbered 21 to 40.

Motion: Move to adopt staff recommendation to grant initial certification to applicants 21 to 40 as listed above.

Motion Proposals:

First	Rolland (Ron) E. DeLong
Second	Leonard Montanaro
Abstain	Robert G. A. Hall

Motion Results: **Pass**

41. *William Pachnowski*
42. *William Riedel*
43. *Oscar Rosas*
44. *Robert Schaller*
45. *Robert Simmons*
46. *Sean Stoermer*
47. *Juan Valdez*
48. *Don Vickery*
49. *Felix Villanueva*
50. *Kent Ware*
51. *Michael White*
52. *Carl Williams*
53. *Lori Winans*

Discussion: The certificate holders listed above submitted applications for renewal of certification. The applications are complete, no information was presented during the background which is contrary to renewal of certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for certification. Staff confirmed the issues with certificate holder #44 have been resolved. Staff recommended renewal of certification be granted to the above applicants listed 41 to 53.

Motion: Move to adopt staff recommendation to grant initial certification to applicants listed 41 to 53 as listed above.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Robert G. A. Hall

Motion Results: Pass

54. Debra Sears

Discussion: The certificate holder listed above submitted an application for renewal of certification as restricted. Staff recommended renewal of certification as restricted be granted.

Motion: Move to adopt staff recommendation to grant renewal certification as restricted.

Motion Proposals: First Lynette Rudow
Second Pamela K. Najera

Motion Results: Pass

55. Eduardo Hernandez

Discussion: The certificate holder listed above submitted an application for renewal of certification. The application is complete, however, the applicant failed to complete the examination by the required deadline of September 1, 2009. The applicant has taken and passed the examination in the month of September. No other information was presented during the background which is contrary to renewal of certification being granted, and the certificate holder has demonstrated he meets all other minimum eligibility requirements for certification. Staff recommended renewal of certification be granted.

Motion: Move to adopt staff recommendation to grant renewal certification.

Motion Proposals: First Elaine Acosta Sweet
Second Pamela K. Najera

Motion Results:

Pass

- 56. *Yves Pierre*
- 57. *Raymond Abate*
- 58. *Stephen Abney*
- 59. *James Caruso*
- 60. *Philip Corrigan*
- 61. *Donald Hudson*
- 62. *Shana Pearce*
- 63. *Refugio Quintero*
- 64. *Susan Schwarz*
- 65. *John Tobin*

Discussion:

The certificate holders listed above submitted applications for renewal of certification. The applications, however, remain incomplete pending receipt of additional information, background investigation, or proof of continuing education and classes taught. Staff recommended deferral of these renewal applicants to the February meeting.

Motion:

Move to adopt staff recommendation to defer consideration of renewal applications for the above individuals to the February meeting.

Motion Proposals:

- First Lynette Rudow
- Second Pamela K. Najera

Motion Results:

Pass

- 66. *Dana Arries*

Discussion:

Applicant failed to disclose a civil action. Staff recommended renewal certification be granted and include language regarding non-disclosure on future applications may result in denial or disciplinary action.

Motion:

Move to adopt staff recommendation to grant renewal certification with the above language.

Motion Proposals:

- First Pamela K. Najera
- Second Robert G. A. Hall

Motion Results:

Pass

- 67. *Wayne Church*

Discussion: The certificate holder listed above failed to sit and pass the examination by September 1st. Mr. Church sat for and passed the December 2nd examination. The application is complete, no information was presented during the background which is contrary to renewal of certification being granted, and the certificate holder has demonstrated he meets the minimum eligibility requirements for certification. Staff recommended renewal certification be granted.

Motion: Move to adopt staff recommendation to grant renewal certification.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Virginia Davis

Motion Results: Pass

- 68. *Jane Hoyt*
- 69. *Nancy Shepherd*

Discussion: The certificate holders listed above have provided the additional information requested. The applications are now complete, no information was presented during the background which is contrary to renewal of certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for certification. Staff recommended renewal certification be granted.

Motion: Move to adopt staff recommendation to grant renewal certification.

Motion Proposals: First Robert G. A. Hall
Second Rolland (Ron) E. DeLong

Motion Results: Pass

- 70. *Gordon Fox*
- 71. *Pamela York*

Discussion: Staff recommended renewal certification be granted to the above individuals and include language regarding non-disclosure on future applications may result in denial or disciplinary action.

Motion: Move to adopt staff recommendation to grant certification with the additional language as above.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Robert G. A. Hall

Motion Results: Pass

- 72. *Adriana Ruiz*

Discussion: Staff recommended the Board deny Ms. Ruiz’s renewal application pursuant to ACJA 7-201 (E)(2)(c)(1):
...has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.

Motion: Move to adopt staff recommendation to deny renewal certification.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Elaine Acosta Sweet

Motion Results: Pass

4-C: Review, consideration and possible action regarding pending renewal of certification applications of the following defensive driving schools:

Individuals Addressing the Board: Kimberly Siddall

1. Gila County T.S.S. (Jo Elaine Lewis)

Discussion: The certified school entity listed above submitted an application for renewal of standard certification. The application is complete, no information was presented during the background which is contrary to renewal of standard certification being granted, and the certificate holder has demonstrated they meet the minimum eligibility requirements for standard certification. Staff recommended renewal of standard certification be granted.

Motion: Move to adopt staff recommendation to grant standard certification.

Motion Proposals: First Leonard Montanaro
Second Elaine Acosta Sweet

Motion Results: Pass

2. AZ Academy of Defensive Driving (William Riedel)

Discussion: The certified school entity listed above submitted an application for renewal of standard certification. The application is complete, no information was presented during the background which is contrary to renewal of standard certification being granted, and the certificate holder has demonstrated they meet the minimum eligibility requirements for standard certification. Staff recommended renewal of standard certification be granted.

Motion: Move to adopt staff recommendation to grant standard certification.

Motion Proposals: First Lynette Rudow
Second Leonard Montanaro

Motion Results: Pass

3. *DrivingUniversity.com (Kelly Popp)*
4. *GoToTrafficSchool.com (Doug Marshall)*
5. *National Traffic Safety Inst. (Gary Cooper)*
6. *2 Pass Defensive Driving (Gordon Fox)*

Discussion: The certified school entities listed above submitted applications for renewal of standard certification. The applications are complete, no information was presented during the background which is contrary to renewal of standard certification being granted, and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. Staff recommended renewal of standard certification be granted.

Motion: Move to adopt staff recommendation to grant standard certification to the schools listed above.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Elaine Acosta Sweet

Motion Results: Pass

7. *AZ Monsoon Driving LLC (Geoff McNabb)*
8. *I Drive Safely (Rick Hernandez)*

Discussion: The certified school entities listed above submitted applications for renewal of standard certification. The applications remain incomplete pending receipt of additional information. Staff recommended these applications be deferred to the February meeting.

Motion: Move to adopt staff recommendation for deferral of the schools listed above to the February meeting.

Motion Proposals: First Elaine Acosta Sweet
Second Robert G. A. Hall

Motion Results: Pass

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

Individuals Addressing the Board: Chris DeWitt

Drive Right, LLC

Discussion: Drive Right, LLC, a traditional classroom format defensive driving school located in Gilbert, Arizona, applied for certification on November 3, 2008. Division staff performed a review of the new school's application and curriculum. Staff observed the course demonstration on September 15, 2009. It was recommended initial certification be granted to Drive Right, LLC.

Motion: Move to adopt staff recommendation to grant initial certification.

Motion Proposals: First Lynette Rudow
Second Leonard Montanaro

Motion Results: Pass

Drive Safe AZ Traffic School

Discussion: Drive Safe AZ Traffic School, a traditional classroom format defensive driving school located in Surprise, Arizona, applied for certification on July 10, 2009. Division staff performed a review of the new school's application and curriculum. Staff observed the course demonstration on September 17, 2009. It was recommended initial certification be granted to Drive Safe AZ Traffic School. Mr. DeWitt answered some general questions from the board.

Motion: Move to adopt staff recommendation to grant initial certification.

Motion Proposals: First Leonard Montanaro
Second Robert G. A. Hall

Motion Results: Pass

Division Director, Nancy Swetnam joined the meeting by phone at 11:08 a.m. to update the Board regarding Agenda Item 3-C, previously tabled.

3-C: Review and discussion regarding proposed changes to ACJA § 7-205 and the Defensive Driving Program.

Individuals Addressing the Board: Nancy Swetnam

Discussion: Division Director Swetnam appeared telephonically to provide a verbal report to the Board regarding issues the Arizona Judicial Council was currently discussing in its review of proposed legislation changes to the Defensive Driving Program. Ms. Swetnam reported the Council had significant concerns with the proposed changes including the impact on the courts and on the students, additional responsibilities for staff, and the lack of funding. The Council questioned the need for additional legislation when issues could be addressed through ACJA § 7-205 and the collaborative process already in effect. Therefore, the Council was

opposed to the legislation in its current form. Later in the afternoon the Council would discuss whether or not to recommend to the court that it adopt the proposed changes to ACJA § 7-205.

Return to Agenda Item 5-A

5) CERTIFICATION AND ELIGIBILITY

5-A: Review, discussion and possible action regarding Voluntary Surrender request received from certified instructor Keith L. Bailly, certificate number 40790.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Staff recommended the Board accept the voluntary surrender request of Keith Bailly.

Motion: Move to adopt staff recommendation.

Motion Proposals: First Robert G. A. Hall
Second Rolland (Ron) E. DeLong

Motion Results: Pass

5-B: Review, discussion and possible action regarding request for consideration of expired certificate holder Sandra Brown.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Ms. Brown is requesting the Board allow her to file a renewal application. Pursuant to ACJA 7-205 (G)(5)(b):
“If an instructor’s certification lapses...the instructor is not eligible to apply for subsequent certification for six months.”
Staff recommended the Board seek advice of legal counsel.

Motion: Move to go into Executive Session for advice of legal counsel regarding Agenda Items 5-B and 5-C.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Robert G. A. Hall

Motion Results: Pass

Executive Session: 11:15 a.m. to 11:22 a.m.

Discussion: Staff sent Ms. Brown a letter on November 9, 2009 informing her of her expired certificate. A letter from Phyllis Wells of Casa Grande Valley Counseling Service, Inc. and from Ms. Brown was included in today's materials for Board review. Discussion included whether or not the Board has the authority to waive ACJA 7-205 (G)(5)(b). It was recommended the Board deny the request.

Motion: Move to adopt staff recommendation to deny the request.

Motion Proposals: First Judge Daniel S. Jurkowitz
Second Pamela K. Najera

Motion Results: Pass

5-C: Review, discussion and possible action regarding request for consideration of expired certificate holder Katey (Boersema) Krupa.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Staff sent Ms. Krupa a letter on November 9, 2009 informing her of her expired certificate. The certificate holder's response, requesting the Board allow her to file a renewal application, was included in today's materials for Board review. It was recommended the Board deny the request.

Motion: Move to adopt staff recommendation to deny the request.

Motion Proposals: First Leonard Montanaro
Second Lynette Rudow

Motion Results: Pass

5-D: Review, discussion and possible action regarding approval of third party contracts between Arizona Academy of Defensive Driving and ArizonaDriver.com, as well as EZ AZ Traffic School And Safe 2 Drive.

Individuals Addressing the Board: Kimberly Siddall

Discussion: Arizona Academy of Defensive Driving and ArizonaDriver.com are both certified defensive driving schools in good standing. EZ AZ Traffic School and Safe 2 Drive are both certified defensive driving schools in good standing. Staff recommended the Board approve the third party contracts pursuant to ACJA 7-205(F)(22)(c)(13).

Motion: Move to adopt staff recommendation.

Motion Proposals: First Leonard Montanaro
Second Robert G. A. Hall
Abstain Virginia Davis

Motion Results: **Pass**

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Motion: Adjourn the meeting.

Motion Proposals: First Rolland (Ron) E. DeLong
Second Robert G. A. Hall

Motion Results: **Pass**

Time: 11:30 a.m.

Initials: BT