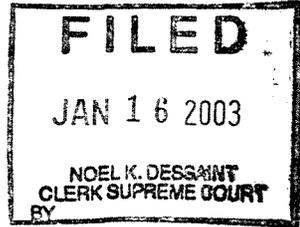


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter of:)
ARIZONA CODE OF JUDICIAL)
ADMINISTRATION §7-208: LEGAL)
DOCUMENT PREPARERS)
)
)
_____)

Administrative Order
No. 2003- 14

The above captioned provision came before the Arizona Judicial Council on December 12, 2002 and has been recommended for adoption.

Rule 31, Rules of the Supreme Court, provides for the regulation and discipline of persons engaged in the practice of law, and provides exceptions where nonlawyers who have not been admitted to the State Bar of Arizona, may perform specified legal services. Legal document preparers are nonlawyers who prepare or provide legal documents, without the supervision of an attorney for an entity or a member of the public who is engaging in self representation in any legal matter. The Court recognizes the need to protect the public from possible harm caused by nonlawyers providing legal services must be balanced against the public's need for access to legal services. The State Bar of Arizona filed a Rule 28 petition proposing an amendment to Rule 31 to provide an additional exception, to permit legal document preparers to perform specified legal services. The Court has approved this rule change, with an effective date of July 1, 2003. §7-208 provides the certification and disciplinary process for legal document preparers, consistent with the amendment to Rule 31.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution, and Rule 31, Rules of the Supreme Court,

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration effective April 1, 2003.

Dated this 16th day of January, 2003.

FOR THE COURT:

CHARLES E. JONES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-208: Legal Document Preparer

A. Definitions.

“Board” means the Board of Legal Document Preparers, appointed by the Chief Justice of the Supreme Court.

“Certification” means a certificate issued by the program coordinator, upon decision of the board, to a person or entity when the person or entity meets the requirements of this code section.

“Code section” means the referenced provision of the Arizona Code of Judicial Administration.

“Days” means the same as provided by the Arizona Rules of Civil Procedure, that is: the computation of days is as follows: if “. . . less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation . . .” and if “. . . 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation.”

“Deputy director” means the deputy director of the administrative office of the courts (AOC), Arizona Supreme Court.

“Director” means the director of the AOC, or the director’s designee.

“Formal charges” means the document setting forth specific acts of misconduct by a certified legal document preparer or violations of this code section, including any amendments, authorized by the board upon a determination of probable cause.

“Formal disciplinary proceedings” means filing of formal charges specifying misconduct by a certified legal document preparer. Formal disciplinary proceedings commence after a finding there is probable cause to believe a legal document preparer has committed a violation of the administrative code or court rules that if true, would warrant a public sanction. The public sanction could include restrictions on the certificate, or suspension or revocation of the certificate.

“Hearing officer” means an individual appointed pursuant to this code section, to preside over an administrative hearing regarding the denial of initial or renewal certification or a complaint regarding alleged misconduct of a certificate holder.

“Informal disciplinary proceedings” means resolution of a complaint prior to the filing of formal charges. An informal disciplinary proceeding may result in imposition of sanctions, but the sanction may not

include restrictions on a certificate or suspension or revocation of a certificate.

“Legal document preparer” means an individual who is certified pursuant to this section to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter. An individual whose assistance consists merely of secretarial or receptionist services is not a legal document preparer.

“Letter of concern” means a communication from the board notifying a certificate holder of the board’s determination the certificate holder has violated a provision of the applicable code sections and statutes and that informal discipline is appropriate. A letter of concern is not appealable.

“Program coordinator” means the staff appointed by the administrative director to administer the program.

“Revoked” means a certificate is permanently invalidated or canceled as a result of proceedings brought by the board, after a finding of probable cause, pursuant to a statement of formal charges.

“Section” means the referenced provisions of the Arizona Revised Statutes (A.R.S.).

“Supreme Court” means the Supreme Court of Arizona.

“Suspended” means a certificate is not revoked, but the certificate holder is not permitted to exercise the privileges of the certificate for a set period of time as a result of proceedings brought by the board, after a finding of probable cause, pursuant to a statement of formal charges.

“Trainee” means a person who would qualify for certification as a legal document preparer but for the lack of required experience, and who is seeking to gain the required experience to qualify as a certified legal document preparer by working under the supervision of a certificate holder to perform authorized services, as set forth in this code section.

“Valid” means currently in effect, issued and signed by authorized staff of the applicable program and not suspended or revoked.

B. Applicability. This code section applies to individuals or entities that come within the exception to the prohibition of the unauthorized practice of law set forth in Rule 31(a)(4), Rules of the Supreme Court. In order to qualify for the specified exception, legal document preparers shall hold, or perform their duties under supervision in accordance with subsection (F)(5) of this code section by a person holding valid certification. A certified legal document preparer shall also comply with the requirements of this code section. Beginning July 1, 2003, a person shall not engage in the preparation of legal documents as specified in subsection F(1) of this code section, unless the person is certified pursuant to this code section. A person shall not represent oneself as a certified legal document preparer unless the person

holds a valid certificate as a certified legal document preparer.

C. Purpose. The supreme court has inherent regulatory power over all persons providing legal services to the public, regardless of whether they are lawyers or nonlawyers. The court recognizes, however, that the need to protect the public from possible harm caused by nonlawyers providing legal services must be balanced against the public's need for access to legal services. Accordingly, this code section is intended to:

1. Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules; and
2. Result in the effective administration of the Legal Document Preparer Program.

D. Administration.

1. Responsibilities of the supreme court. The supreme court shall:
 - a. Administer the legal document preparer certification program;
 - b. Adopt rules for the implementation and administration of the program. At a minimum the rules shall include a code of conduct, minimum qualifications, and certification; and
 - c. Establish and collect fees, costs and fines necessary for the implementation and enforcement of the program.
2. Establishment and Administration of Fund. The supreme court shall establish a Legal Document Preparer Fund consisting of monies received for certification fees, costs and fines. The supreme court shall administer the Legal Document Preparer Fund and shall receive and expend monies from the fund.
3. Responsibilities of the Program Coordinator. The program coordinator, designated by the director, shall:
 - a. Administer the Legal Document Preparer Certification Program;
 - b. Forward all certification fees, costs, and fines imposed and received pursuant to this code section to the state treasurer for deposit in the Legal Document Preparer Fund;
 - c. Provide updates to the board, make recommendations regarding matters pertaining to certification, complaints and investigations, and all other matters relevant to certified legal

document preparers; and

- d. Maintain a list of certified legal document preparers. The program coordinator shall distribute the list to the superior court and make it available to the public. The program coordinator may charge for the costs of providing copies of the certification list or any other public records of the program pursuant to the Rules of the Supreme Court.

4. Board of Legal Document Preparers.

- a. Establishment. The Board of Legal Document Preparers is established, comprised of the following eleven members:

- (1) Five certified legal document preparers who have each worked as a legal document preparer for at least five years;
- (2) The administrative director of the courts or designee;
- (3) One judge or court administrator;
- (4) One clerk of the superior court or designee;
- (5) One attorney; and
- (6) Two public members not affiliated with any lawyer, judge, certified legal document preparer, or court system.

- b. Appointment of Members. The chief justice of the supreme court shall appoint board members to initial terms of one, two, and three years. Thereafter, all terms are three years. 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.

- c. Duties. The board shall:

- (1) Make recommendations to the supreme court regarding rules, policies and procedures to implement and enforce the requirements regarding certified legal document preparers, including:
 - (a) Applicant testing;
 - (b) Administrative fees;
 - (c) A code of conduct;
 - (d) Continuing education; and
 - (e) Any other matter pertaining to certified legal document preparers;
- (2) Issue certificates to qualified applicants;
- (3) Direct the program coordinator to conduct investigations into alleged violations by certified legal document preparers and;
- (4) Adjudicate and make all final decisions regarding alleged violations by certified legal document preparers pursuant to subsection H of this code section.

E. Certification.

1. Necessity. A person shall not represent they are a certified legal document preparer, or are authorized to prepare legal documents, without valid certification pursuant to this code section.
2. Eligibility for Application. Any individual person or any business entity, if eligible pursuant to subsection E(3) of this code section, may apply for certification.
3. Initial Certification
 - a. Eligibility for Individual Certification. The board shall grant an initial certificate to an individual applicant who meets the following qualifications:
 - (1) A citizen or legal resident of this country;
 - (2) At least 18 years of age;
 - (3) Of good moral character; and
 - (4) Comply with the laws, court rules, and orders adopted by the supreme court governing legal document preparers in this state.
 - (5) The applicant shall also possess one of the following combinations of education or experience:
 - (a) a high school diploma or a general equivalency diploma evidencing the passing of the general education development test and a minimum of two years of law-related experience in one or a combination of the following situations:
 - (i) under the supervision of a licensed attorney;
 - (ii) providing services in preparation of legal documents prior to July 1, 2003;
 - (iii) under the supervision of a certified legal document preparer after July 1, 2003;or
 - (iv) as a court employee;
 - (b) a four-year bachelor of arts or bachelor of science degree from an accredited college or university and a minimum of one year of law-related experience in one or a combination of the following situations:
 - (i) under the supervision of a licensed attorney;
 - (ii) providing services in preparation of legal documents prior to July 1, 2003;
 - (iii) under the supervision of a certified legal document preparer after July 1, 2003;or
 - (iv) as a court employee;
 - (c) a certificate of completion from a paralegal or legal assistant program that is institutionally accredited but not approved by the American Bar Association, that

requires successful completion of a minimum of 24 semester units, or the equivalent, in legal specialization courses;

- (d) a certificate of completion from an accredited educational program designed specifically to qualify a person for certification as a legal document preparer under this code section;
- (e) a certificate of completion from a paralegal or legal assistant program approved by the American Bar Association;
- (f) a degree from a law school accredited by the American Bar Association; or
- (g) a degree from a law school that is institutionally accredited but not approved by the American Bar Association.

b. Procedures for Initial Individual Certification.

- (1) Application Form. Applicants shall file a completed application, signed and verified under oath, with the program coordinator. An applicant for individual certification shall submit with the application one color passport-size photograph, two inches by two inches.
- (2) Fees. The applicant shall pay the nonrefundable fees for initial application, as established in the fee schedule adopted by the supreme court, at the time the application is submitted. The program coordinator shall not accept an application without payment of the fees.
- (3) Completion Deadline. The applicant shall have one year from the date of the initial application to complete the certification process. The board shall treat an applicant who does not complete the process within one year as a new applicant and require the applicant to submit a new application and certification fees.

c. Eligibility for Certification as a Business Entity.

- (1) A corporation, limited liability company, partnership, or sole proprietorship that employs certified legal document preparers, shall obtain certification as a business entity. The business entity shall execute and submit a principal form designating one or more principals who are certified as individual legal document preparers pursuant to this code section. The principal shall have the duties and responsibilities set forth in subsection F(6) of this code section. In the event a designated principal is no longer able or willing to serve as the principal, a certified business entity shall immediately designate another certified legal document preparer as the new principal and within twenty days file an executed principal form with the program coordinator.
- (2) The owner of a legal document preparer business is not required to hold certification, provided the owner has a designated principal who holds valid certification as a legal document preparer.
- (3) A sole proprietor who does not employ certified legal document preparers is not required to hold certification as a business, provided the sole proprietor holds valid certification as a legal document preparer.

- (4) No person who has been disbarred by the highest court in any state, and who has not been reinstated, may retain any ownership interest in a certified legal document preparer business.
- (5) No person whose certificate has been revoked by the Board of Legal Document Preparers may retain any ownership interest in a certified legal document preparer business.

d. Procedures for Initial Business Certification.

- (1) Application Form. Applicants shall file a completed application, signed and verified under oath by the person completing the application, with the program coordinator. The executed principal form and a list of all certified legal document preparers acting for or on behalf of the business entity shall accompany the application.
- (2) Fees. The applicant shall pay the nonrefundable fees for initial certification as a business, as established in the fee schedule adopted by the supreme court, at the time the application is submitted. The program coordinator shall not accept an application without payment of fees.
- (3) Completion Deadline. The applicant shall have one year from the date of the initial application to complete the certification process. The board shall treat an applicant that does not complete the process within one year as a new applicant and require the applicant to submit a new application and certification fees.

4. Standard Certification

- a. Eligibility. From and after July 1, 2005, all applicants for individual certification, in addition to meeting the requirements set forth in subsection E(3)(a), shall meet the examination requirements of subsections E(4)(b) and (c) of this code section. The examination requirements do not apply to entities applying for certification as a business.

b. Procedures for Examination.

- (1) The examination for standard certification shall consist of a written knowledge test of rules of the supreme court relating to legal document preparers.
- (2) The board shall administer the examination and shall specify a date and place for the examination. An applicant shall pass with a final score on the test that meets the guidelines established by the board.
- (3) An applicant who fails to pass the written examination may retake the examination one time within six months of the date of the failed examination, provided the applicant has not been disqualified pursuant to subsection E(4)(b)(4). An applicant who fails to pass the second and any subsequent examinations may not take the examination again for a period of six months.
- (4) The board shall disqualify an applicant from taking any future examination if the board

determines the applicant engaged in fraud, dishonesty or corruption while taking the examination.

- c. Completion Deadline. The applicant shall have one year from the date of the application to complete the requirements for standard certification. The board shall treat an applicant who does not complete the process within one year as a new applicant and require the applicant to retake the examination and pay all standard certification and examination fees.

5. Decision Regarding Certification.

- a. Approval of Certification. If the board is satisfied an applicant meets the requirements of this code section, the board shall issue a certificate to the applicant designating the status of the legal document preparer as associated with a business or as acting independently. Upon instruction from the board, the program coordinator shall promptly notify a successful applicant of certification and provide the applicant with a document, in a form determined by the board, stating the applicant's name, date of certification, and certificate number.

- b. Denial of Certification.

- (1) The board may refuse to issue a certificate if the board finds that any of the following applies:
 - (a) The applicant does not meet the requirements for certification;
 - (b) The applicant has not submitted the applicable documents and fees;
 - (c) The applicant committed fraud, dishonesty, corruption or material misrepresentation in applying for a certificate or on a certificate examination in this state or another state;
 - (d) The applicant has a record of a conviction by final judgment of a felony or any other offense involving moral turpitude;
 - (e) The applicant is currently on probation, parole, or community supervision for a felony offense, or is named in an outstanding warrant;
 - (f) The court has ordered treatment for the applicant pursuant to A.R.S. Title 36, or has found the applicant incapacitated pursuant to A.R.S. Title 14;
 - (g) The applicant is subject to revocation or suspension of a certificate pursuant to this code section or has had any occupational or professional license denied, revoked or suspended; or
 - (h) The applicant has been found civilly liable in an action involving fraud, intentional misrepresentation, misappropriation, theft or conversion.
- (2) An applicant's failure to disclose information on the application that is subsequently revealed through the fingerprint background check may constitute good cause for automatic denial of the certification, if the nondisclosed information is relevant to the practice of document preparation.
- (3) On instruction from the board, the program coordinator shall promptly notify applicants

denied certification, in accordance with this code section, of the reasons for the denial and of the applicant's right to a hearing.

- (4) An applicant may exercise the right to a hearing on the decision to deny certification or renewal by filing a written request within fifteen days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections H(8) through H(14) and H(17) of this code section apply regarding the procedures for the hearing and review.

F. Role and Responsibilities of Certificate Holders.

1. Authorized Services. A certified legal document preparer may:
 - a. Prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public in any legal matter when that entity or person is not represented by an attorney;
 - b. Provide general legal information, but may not provide any kind of specific advice, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies;
 - c. Provide general factual information pertaining to legal rights, procedures, or options available to a person in a legal matter when that person is not represented by an attorney;
 - d. Make legal forms and documents available to a person who is not represented by an attorney; and
 - e. File and arrange for service of legal forms and documents for a person in a legal matter when that person is not represented by an attorney.
2. Code of Conduct. Each certified legal document preparer shall adhere to the code of conduct incorporated in this code section and adopted by the supreme court.
3. Identification. Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP," and the legal document preparer's certificate number on all documents prepared by the legal document preparer that are filed in an Arizona court or tribunal. The legal document preparer shall also provide their title and certificate number upon request.
4. Notification of Changes.
 - a. A certificate holder shall inform the program coordinator, in writing, of any change in name,

address, employment, or phone number within 30 days after the change occurs.

- b. If the status of a certificate holder changes from being associated with a business entity, the legal document preparer shall, within 30 days of the change, notify the program coordinator.
- c. A business entity shall notify the program coordinator within 30 days of the termination of employment when an employee who is a certified legal document preparer leaves the employment of the business entity.

5. Supervision of Trainees.

- a. If a certificate holder employs a person who would qualify for certification as a legal document preparer but for the lack of required experience, the certificate holder may train the employee to perform services authorized by this code section for a period not to exceed two and one-half years.
- b. The trainee may perform authorized services, as set forth in subsection F(1) of this code section, only under the supervision of the certificate holder. Neither the trainee nor the certificate holder may represent that the trainee is a certified legal document preparer.
- c. Any certificate holder who undertakes to train an employee shall:
 - (1) Assume personal professional responsibility for the trainee's guidance in any work undertaken and for supervising, generally or directly, as necessary, the quality of the trainee's work;
 - (2) Assist the trainee in activities to the extent the certificate holder considers it necessary;
 - (3) Ensure the trainee is familiar with and adheres to the provisions of this code section and the code of conduct; and
 - (4) Provide the certificate holder's name and certificate number, as required by subsection F(3) of this code section, on any documents filed in a court or tribunal that were prepared by the trainee under the certificate holder's supervision.

6. Designated Business Principal. The designated principal of a certified business entity shall:

- a. Prepare and submit, with the initial business application, a list of all certified legal document preparers acting for or on behalf of the business entity;
- b. File with the program coordinator, by June 30th of each year, a list of all certified legal document preparers and a list of all subsection F(5) trainees acting for or on behalf of the business entity as of June 1st of that year;

- c. Actively and directly supervise all other certified legal document preparers, subsection F(5) trainees, and staff working for the certified business entity.
- d. Represent the business entity, at the discretion of the entity, in any proceeding under this code section.

G. Renewal of Certification.

1. Expiration Date. All initial certifications expire at midnight, on June 30th of each year. The board may not, except in extenuating circumstances, renew an initial certificate beyond June 30, 2005. All standard certifications expire at midnight, on June 30th of each odd numbered year. All certificates shall continue in force until expired, suspended, revoked or terminated. If the board receives the request for renewal and prescribed fees after the established deadline, the board shall determine the certificate expired as of June 30th.
2. Voluntary Surrender. An applicant may voluntarily surrender a certificate; however, this surrender is not valid until accepted by the board. The board may require additional information reasonably necessary to determine if the certificate holder has violated this code section. The board shall, within 120 days of the voluntary surrender of the certification, either file a notice of hearing regarding a complaint and disciplinary action, or accept the surrender.
3. Application. The certificate holder is responsible for applying for a renewal certificate. To remain eligible to serve as a legal document preparer in Arizona, a certified legal document preparer shall submit a completed renewal application, applicable fees and documentation by the renewal application deadlines established by the board.
4. Continuing Education. All certified legal document preparers shall attend ten hours of continuing training every year, consisting of board approved continuing education relevant to the preparation of documents. The certified legal document preparer shall provide documentation, on an approved form, of completion of the ten hours of continuing education and submit this documentation with the application for renewal of certification.
5. Additional Information. The board may, before granting a renewal of certification, require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this code section. This may include background information, fingerprinting or a signed affidavit.
6. Decision Regarding Renewal.
 - a. On receipt of the renewal application and the renewal fee, the board shall issue the applicant a new initial certificate for one year and a new standard certificate for two years unless the

board finds that the applicant does not meet the requirements for renewal.

- b. The board may deny renewal of a certificate for any of the reasons specified in subsection E(5)(b) of this code section.
- c. On instruction from the board, the program coordinator shall promptly notify qualified applicants of the renewal of their certification and provide them with a document in a form determined by the board, stating the applicants' name, date of certification, and certificate number.
- d. On instruction from the board, the program coordinator shall promptly notify applicants denied renewal of certification of the reasons for the denial, and of the applicant's right to a hearing.
- e. An applicant is entitled to a hearing on the decision to deny renewal if the applicant files a written request with the board within fifteen days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsection H of this code section apply regarding the procedures for the hearing and review.

H. Complaints, Investigation, Hearings and Disciplinary Action.

1. General Provisions

- a. Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has:
 - (1) Wilfully violated or wilfully failed to comply with applicable laws, court orders, or orders of the board, or any provision of the Arizona Rules of Court or this code section;
 - (2) Violated, or failed to discharge any obligation required by this code section;
 - (3) Exhibited gross negligence or incompetence in the performance of duties;
 - (4) Engaged in fraud, dishonesty or corruption;
 - (5) Aided or assisted another person to engage in independent preparation of documents if the other person is not a certified legal document preparer;
 - (6) Been convicted by final judgment of a felony offense or any other offense involving moral turpitude;
 - (7) Been the subject of court-ordered treatment pursuant to A.R.S. Title 36 or been found incapacitated pursuant to A.R.S. Title 14; or
 - (8) Engaged in any other activity or omission for which the board is authorized to revoke or suspend a certificate under this code section.
- b. Effect of Expiration of Certification on Discipline. The expiration provisions described in subsection G of this code section do not affect the right of the board to investigate and take disciplinary action regarding the certification of a certificate holder if a complaint or investigation is pending prior to the expiration date. Non-renewal of the certification by the certificate

holder does not affect this provision.

- c. Cease and Desist Order. A hearing officer or a superior court judge, upon petition by the Board of Document Preparers, may enter an order for an individual to immediately cease and desist from conduct that constitutes engaging in the practice of document preparation without the required certification.
- d. Confidentiality. The board, program staff and court employees shall keep information or documents obtained or generated by the board, program staff or court employees in the course of an open investigation or received in an initial report of misconduct confidential except as mandated by public record rules adopted by the supreme court or by this code section. Upon determination by the board the alleged violations are sufficiently serious to warrant filing of formal charges, the complaint, all records of proceedings and actions by the board pertaining to the complaint are open to the public. Any complaint dismissed by the board pursuant to subsections H(3) or H(5)(b)(1) of this code section is confidential and not subject to public inspection. All other actions are open to the public upon final disposition by the board.
- e. Service. The board shall serve notice of formal charges by personal service upon the certificate holder or the certificate holder's counsel, or by certified mail, return receipt requested, to the certificate holder's address of record with the board. Service by mail is complete upon deposit in the United States mail. Proof of service is made by filing with the hearing officer a verified statement that service was made. Delivery of all other papers or notices, including a request for a response to a complaint, shall be made by first class mail unless otherwise ordered by the board.
- f. Subpoenas.
 - (1) For the purposes of investigations or hearings under this code section, the board or a hearing officer may administer oaths and affirmations, subpoena witnesses, take evidence and require the production of documents, records or information, either kept in original form or electronically stored or recorded, or other items relevant or material to the inquiry.
 - (2) If a person fails to obey a subpoena issued pursuant to this section, the board or a hearing officer may request the superior court issue an order that requires the appearance by a person or the production of documents or other items, or both. The court may treat the failure to obey the order as contempt of court and may punish the contempt.
 - (3) Subpoenas shall be issued in the same manner and served as provided by the Arizona Rules of Civil Procedure.
- g. Immunity. Persons appointed by the supreme court to serve in an advisory capacity to the Legal Document Preparer Program, staff of the Legal Document Preparer Program, hearing officers and employees of the AOC who participate in the Legal Document Preparer Program are immune from civil liability for good faith conduct that relates to their official duties.

2. Complaint

- a. All judicial officers or their designees and all certified legal document preparers shall, and any person may, notify the program coordinator if they have personal knowledge a certificate holder has violated this code section. A complainant shall make the complaint in writing with sufficient specificity to warrant further investigation. The complaint shall include the name and telephone number of the complainant.
- b. On receipt of a complaint, the program staff shall investigate and prosecute, and the board shall adjudicate, alleged violations of this code section, as necessary for the enforcement of this code section. The board may initiate a complaint on its own motion.

3. Initial Screening. Upon receipt of a complaint, the program coordinator shall conduct an initial screening to determine if the complaint warrants further investigation and evaluation. If the program coordinator believes the complaint is outside the jurisdiction of this code section, the program coordinator shall recommend the board dismiss the complaint. If the board concurs, the board shall dismiss the complaint. The board may refer the complaint to another state agency or entity with jurisdiction, if appropriate. If the program coordinator determines the complaint is within the jurisdiction of the board, the program coordinator shall conduct a preliminary investigation pursuant to subsection H(4) of this code section.

4. Preliminary Investigation and Recommendation

- a. Preliminary Investigation. The program coordinator and staff shall conduct all investigations promptly, discreetly, and confidentially.
- b. Response from Certificate Holder. The program coordinator shall deliver the complaint to the certificate holder within fifteen days after commencement of the investigation and shall require the certificate holder provide a written response within ten days of delivery of the complaint. The program coordinator and the board shall not proceed with disciplinary action under this code section without providing this notice and the opportunity to respond.
- c. Staff Recommendation. Upon completion of the preliminary investigation, the program coordinator shall prepare a written summary. The summary shall include the staff recommendation for disposition of the alleged violation.

5. Review of Complaint and Investigation.

- a. Probable Cause Review. The deputy director, acting in the capacity of a probable cause panelist, shall review the program coordinator's recommendation and may direct staff to conduct further investigations or may concur with the program coordinator's recommendation.

If the deputy director concurs with the program coordinator's recommendation, the program coordinator shall provide the board with a copy of the complaint, written summary, and recommended disposition.

- b. Review by Board. Upon completion of the investigation and probable cause review, the board shall review the complaint and the staff summary and recommendation. The board may dispose of the matter as follows:
 - (1) Determine no violation exists and dismiss the complaint;
 - (2) Order further investigation;
 - (3) Determine the complaint is appropriate for resolution without proceeding to formal proceedings; or
 - (4) Determine the alleged violations warrant the filing of formal charges, and direct staff to prepare the notice of formal charges and right to hearing and proceed as provided in subsection (H)(6)(b) of this code section.
- c. Emergency Suspension. If the board finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect in the order, the board may, with the consensus of a majority of the members of the full board, order the summary suspension of a certificate pending a proceeding for certificate revocation or other disciplinary action. The board shall provide notice to the certificate holder of its intent to seek emergency suspension three business days prior to commencing emergency suspension proceedings. The board shall ensure disciplinary proceedings are promptly instituted within twenty days of its order. The program coordinator shall immediately notify all presiding judges of the superior court of any summary suspension.

6. Formal Proceedings

- a. Commencement. The board may commence formal proceedings if the board finds reasonable cause to believe the certificate holder has committed misconduct under this code section and the complaint is not appropriate for resolution by informal discipline. The board may, upon commencement of formal proceedings, select a hearing officer, pursuant to subsection H(8) of this code section.
- b. Notice of Formal Charges and Right to Hearing. The board shall serve the statement of formal charges on the certificate holder with a notice advising the certificate holder of the certificate holder's rights pursuant to this code section. The notice shall include the following information:
 - (1) A short and plain statement of the allegations and factual basis supporting the relief requested. Amendments to the statement are permissible;
 - (2) A reference to the particular sections of the statutes, this code section and policies

involved;

- (3) A statement indicating the certificate holder has the right to a hearing, upon request in writing within fifteen days of receipt of the notice; and
- (4) A statement of the requirements for responding to formal charges, as specified in subsection H(6)(c) of this code section.

c. Response. The certificate holder shall file an answer to the notice and formal statement of charges within fifteen days after the date the notice is served, unless otherwise ordered by the board. Answers shall comply with Rule 8 of the Arizona 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 person is in default and the factual allegations in the formal charges are deemed admitted and the board may determine the matter against the party.

7. Discovery.

- a. Permissible Discovery. Discovery is permitted as provided in this code section, as the parties mutually agree, or as the hearing officer permits.
- b. Witnesses. Within fifteen days of the filing of a response to formal charges, the parties shall exchange the names, addresses, and telephone numbers of all persons known to have knowledge of the relevant facts, designating those persons the parties intend to call at the hearing and summarizing their anticipated testimony.
- c. Other Evidence. The parties shall exchange other evidence relevant to the formal charges that is not otherwise confidential.
- d. Duty of Supplementation. The parties have a continuing duty to supplement information required to be exchanged under this code section.
- e. Depositions. Parties may take depositions of other parties or any witnesses expected to be called. Depositions of document custodians are permissible to secure production of documents and to establish evidentiary foundation. No other depositions shall be taken except upon the agreement of all parties, an order of the hearing officer following a motion demonstrating good cause, or an order of the hearing officer following a prehearing conference.
- f. Completion of Discovery. To the extent practicable, all discovery shall be completed within 30 days after the filing of the response or fifteen days before the hearing, whichever is longer.
- g. Failure to Disclose. The hearing officer may preclude any party from calling a witness or presenting evidence at the hearing if the witness or evidence has not been disclosed.

- b. To dispose of preliminary legal issues, including ruling on prehearing motions;
- c. To stipulate to the admission of uncontested evidence, facts and legal conclusions;
- d. To identify witnesses;
- e. To resolve discovery issues, if any; and
- f. To consider any other matters that will aid in the expeditious conduct of the hearing.

11. Procedure at Hearing.

- a. **Hearing Officer.** The hearing officer shall preside over the hearing. The hearing officer has the authority to decide all motions, conduct prehearing conferences, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, question witnesses, recess or adjourn the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition of any case by stipulation, agreed settlement, consent order or default is permissible.
- b. **Rights of Parties.**
 - (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) Any person may represent themselves or appear at a hearing through counsel. An attorney who intends to appear on behalf of a party shall promptly notify the hearing officer and the board, providing the name, address and telephone number of the party represented and the name, address and telephone number of the attorney. A corporate officer may represent a business entity in any proceeding under this code section.
 - (3) All persons appearing before a board or hearing officer in any proceeding shall conform to the conduct expected in the Arizona Superior Court.
- c. **Conduct of Hearing.**
 - (1) The hearing officer may conduct the hearing in an informal manner and without strict adherence to the rules of pleading or evidence. The hearing officer shall require that 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. All hearings are open to the public.
 - (2) The hearing officer shall require that all testimony considered 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.

- (3) In all matters brought at the request of the board, evidence in support of the board's action is presented first and the board has the burden of proof. In matters brought at the request of someone other than the board, including requests for hearing on the denial of certification or renewal of certification, the person seeking the hearing shall present first and carries the burden of proof.

d. Record of Hearing.

- (1) The hearing officer shall ensure all portions of the hearing are electronically recorded and transcribed on request of any party. The party making the request shall pay the cost of the transcript.
- (2) A certified competent court reporter shall make a full stenographic record of the proceedings if requested by a party within five days prior to a hearing. The cost of the transcript is the responsibility of the requesting party. The hearing officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the record is a part of the court's record of the hearing and any other party with a direct interest shall receive a copy of the stenographic record, at the request and expense of the party. If no request is made for a stenographic record, the hearing officer shall ensure the proceedings are recorded as described in subsection H(11)(d)(1) of this code section.

12. Recommendations of Hearing Officer. If applicable, the hearing officer shall, within 30 days of the closing of the record of a hearing, prepare written recommendations and deliver the recommendations to the board. The recommendations shall include findings of fact, based on a preponderance of evidence, and conclusions of law, separately stated.

13. Rehearing. Any party may request a rehearing or reargument of the matters involved in the hearing by filing a written request of a party to a hearing filing the request with the hearing officer within fifteen days after receipt by the party of the order at issue. The request shall conform to the requirements of Rule 59, Arizona Rules of Civil Procedure, and shall be based on one or more of the grounds listed in Rule 59 that materially affected the rights of the party. Any party served with a request for rehearing may file a response within fifteen days of service. The hearing officer shall rule on the request within 30 days of its filing date.

14. Decisions and Orders. The board shall render the final decision 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. The board shall notify the parties of any decision or order either personally or by mail to their last known address.

15. Possible Disciplinary Actions.

- a. Upon completion of an investigation concerning alleged misconduct by a certificate holder, which may or may not include a hearing, the board shall do one or more of the following, as it determines appropriate:
 - (1) Determine no violation exists and dismiss the complaint;
 - (2) Resolve the violation by consent order or other negotiated settlement between the parties;
 - (3) Place restrictions on a certificate;
 - (4) Mandate additional training for the certificate holder;
 - (5) Issue cease and desist orders, letters of concern, or warnings;
 - (6) Order revocation or suspension of certification for violations of this code section;
 - (7) Impose restitution for substantiated economic damages; or
 - (8) Assess costs and impose fines associated with these activities, not to exceed \$2,000 for each failure or violation, and not to exceed an aggregate fine of \$15,000. The program coordinator shall deposit these costs and fines in the Legal Document Preparer Fund.

- b. The board shall issue an order specifying the failure or violations found, the facts supporting the findings, and any sanctions imposed pursuant to this code section.

16. Procedure after Suspension or Revocation.

- a. Notice of Suspension or Revocation. The board shall promptly serve notice of suspension or revocation of any certification upon the certificate holder.

- b. Reinstatement. A legal document preparer whose certificate has been suspended or revoked may apply in writing for a reinstatement of the certificate on a showing of good cause and payment of the renewal fee. The board may grant or deny the request, may require the applicant to take or retake the examination for certification, and may impose other appropriate conditions for reinstatement.

17. Judicial Review. Decisions of the board pursuant to this code section are final. Parties may seek judicial review through a petition for a special action filed in the superior court pursuant to the Arizona Rules of Procedure for Special Actions.

Adopted by Administrative Order 2003-14, Effective July 1, 2003

Section 7-208: Legal Document Preparers
Appendix A
Code of Conduct

Preamble. This code of conduct is adopted by the supreme court to apply to all certified legal document preparers in the state of Arizona. The purpose of this code is to establish minimum standards for performance by certified legal document preparers.

Standard 1. Ethics.

- a. A legal document preparer shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with the laws, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the legal and judicial systems.
- b. A legal document preparer shall be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest.
- c. A legal document preparer shall promptly make full disclosure to a consumer of any relationships which may give the appearance of a conflict of interest.
- d. A legal document preparer shall refrain from knowingly making misleading, deceptive, untrue, or fraudulent representations while assisting a consumer in the preparation of legal documents. A legal document preparer shall not engage in unethical or unprofessional conduct in any professional dealings that are harmful or detrimental to the public.

Standard 2. Professionalism.

- a. A legal document preparer shall treat information received from the consumer as confidential, yet recognize and acknowledge that the privilege of confidential communications is not extended to certified legal document preparers.
- b. A legal document preparer shall be truthful and accurate when advertising or representing the legal document preparer's qualifications, skills or abilities, or the services provided, and shall refrain from denigrating or otherwise calling into disrepute the products or services offered by any other legal document preparer or attorney.
- c. A legal document preparer shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.
- d. A legal document preparer shall keep abreast of current developments in the law as it relates to legal document preparation and shall fulfill ongoing training requirements to maintain professionalism

and the skills necessary to perform their duties competently.

Standard 3. Fees and Services.

- a. A legal document preparer shall, upon request of a consumer at any time, disclose in writing an itemization of all rates and charges to that consumer.
- b. A legal document preparer shall determine fees independently, except when otherwise established by law, entering into no unlawful agreements with other legal document preparers on the fees to any user.
- c. A legal document preparer shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:
 - (1) Establishing contingent fees as a basis of compensation;
 - (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services; and
 - (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments;
- d. A legal document preparer may consult, associate, collaborate with, and involve other professionals in order to assist the consumer.

Standard 4. Skills and Practice.

- a. A legal document preparer shall provide completed documents to a consumer in a timely manner. The legal document preparer shall make a good faith effort to meet promised delivery dates and make timely delivery of documents when no date is specified. A legal document preparer shall meet document preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A legal document preparer shall provide immediate notification of delays.
- b. A legal document preparer shall accept only those assignments for which the legal document preparer's level of competence will result in the preparation of an accurate document. The legal document preparer shall decline an assignment when the legal document preparer's abilities are inadequate.

Standard 5. Performance in Accordance with Law.

- a. A legal document preparer shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.

- b. A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process, except as authorized in Rule 31(a)(4), Rules of the Supreme Court. A legal document preparer shall not attend court with a consumer for the purpose of assisting the consumer in the court proceeding, unless otherwise ordered by the court.

- c. A legal document preparer shall not provide any kind of advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options, or strategies. This shall not, however, preclude a certified legal document preparer from providing the type of information permitted in subsection F(1) of this code section. A legal document preparer shall inform the consumer in writing that a legal document preparer is not a lawyer, is not employed by a lawyer, and cannot give legal advice, and that communications with a legal document preparer are not privileged. A legal document preparer shall not use the designations “lawyer,” “attorney at law,” “counselor at law,” “law office,” “JD,” “Esq.,” or other equivalent words, the use of which is reasonably likely to induce others to believe the legal document preparer is authorized to engage in the practice of law in the state of Arizona.

**Section 7-208: Legal Document Preparers
Appendix B
Fee Schedule**

A. Initial Certification

1. Individual Certification	\$300.00
2. Renewal of Initial Individual Certification	\$300.00
3. Business Entity Certification	\$300.00
4. Renewal of Initial Business Certification	\$300.00

B. Standard Certification

1. Individual Certification	\$250.00
2. Renewal of Standard Individual Certification	\$500.00
3. Business Entity Certification	\$250.00
4. Renewal of Standard Business Certification	\$500.00
5. Late Renewal Fee	\$ 50.00

C. Examination Fee for Standard Individual Certifications

1. Certified Legal Document Preparers (No fee is required for legal document preparers who hold a valid certificate at the time of application for examination.)	\$ 00.00
2. Noncertified Legal Document Preparers (For applicants who do not hold a valid Arizona legal document preparer certificate at the time of application for the examination.)	\$ 50.00
3. Reexaminations (For any applicant who does not pass the examination on the first attempt. The \$50.00 fee applies to each reexamination.)	\$ 50.00
4. Reregistration (For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)	\$ 50.00