

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AMENDING ARIZONA CODE OF) Administrative Order
JUDICIAL ADMINISTRATION § 7-203:) No. 2007- 102
CONFIDENTIAL INTERMEDIARY) (Affecting Administrative
) Order No. 2006-72)
_____)

House Bill 2212 was signed by the Governor on April 16, 2007, and takes effect on January 1, 2008. A.R.S. § 8-543(A) requires the Administrative Office of the Courts to establish "a sibling information exchange program to facilitate contact between a former dependent child and the child's sibling or siblings." A.R.S. § 8-543(E) requires the supreme court to adopt rules necessary to implement the Sibling Information Exchange Program.

A.R.S. § 8-543(C) further requires a person participating in the program to use a certified confidential intermediary. Arizona Code of Judicial Administration (ACJA) § 7-203 provides for the administration of the Confidential Intermediary Program and the certification of confidential intermediaries; therefore amendments to that section are necessary to implement the new program. The Sibling Information Exchange Program extends the current authority of certified confidential intermediaries to access confidential information for the purpose of reuniting siblings separated during dependency proceedings.

On October 24, 2007, the Arizona Judicial Council approved and recommended for adoption the changes to § 7-203 to implement the Sibling Information Exchange Program. The proposed changes to § 7-203 also eliminate the current requirements for a certified confidential intermediary to obtain the approval of staff from the Administrative Office of the Courts prior to initiating a search and to file duplicate finalization reports with staff and the Superior Court.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 7-203 is amended as indicated on the attached document. All other provisions of § 7-203 remain unchanged and in effect.

IT IS FURTHER ORDERED that the effective date of this amendment shall be January 1, 2008.

Dated this 20th day of December, 2007.

RUTH V. MCGREGOR
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-203: Confidential Intermediary

[Added text is shown underlined, deleted text by ~~strikethrough~~.]

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

“Adoptee” means an individual adopted pursuant to A.R.S. §§ 8-102 and 14-8101.

“Agency” means “a person other than the division licensed by the division to place children for adoption, including an attorney or law firm” as provided by A.R.S. § 8-101(2).

“Child” means “any person under eighteen years of age” as provided by A.R.S. § 8-101(4).

“Confidential intermediary” means a person who completes the requirements for certification as established by ACJA § 7-201, this section and A.R.S. § 8-134 and who possesses a valid confidential intermediary certificate issued by the supreme court.

“Former dependent child” means “a person who was previously adjudicated a dependent child in a dependency proceeding that has been dismissed by order of the juvenile court” as provided by ARS § 8-501(3).

“Mentor” means a certified confidential intermediary who assists an inexperienced certified confidential intermediary throughout a case.

“Search” means the process where a confidential intermediary, upon the request of a ~~birth parent, adoptive parent, adoptee or birth sibling of an adoptee~~ qualified individual pursuant to A.R.S. § 8-134(A) or A.R.S. § 8-543(B), or upon a court order, reviews court, agency, and public or other authorized records to locate information regarding an adoptee, birth parent, adoptive parent or birth sibling of an adoptee, or sibling of a former dependant child.

“Sibling” means “For the purpose of this section, “sibling” includes a person who shares a common biological parent, stepparent or adoptive parent” as provided by A.R.S. § 8-543(F).

B. Applicability. This section governs the confidential intermediary and sibling information exchange programs, applies to every confidential intermediary in the state and is read in connection with ACJA § 7-201: General Requirements. In the event of a conflict between this section and ACJA § 7-201, the provisions of this section shall govern.

1. A.R.S. § 8-134(J) provides:

A person shall not act as a confidential intermediary unless the person possesses a confidential intermediary certificate issued by the supreme court. In order to be certified as a confidential intermediary a person shall meet and

maintain the minimum standards prescribed by this section and the rules adopted by the supreme court.

2. Regarding the sibling information exchange program, A.R.S. § 8-543(C) provides: “A person participating in the program shall use a confidential intermediary who is certified pursuant to section 8-134.”

C. Purpose. In addition to the requirements of ACJA § 7-201(C), this section is intended to result in the effective administration of the confidential intermediary and sibling information exchange programs.

D. Administration.

1. Role and Responsibilities of the Supreme Court.

a. In addition to the requirements of ACJA § 7-201(D), A.R.S. § 8-134(I) states:

The Arizona supreme court shall administer the confidential intermediary program. The court shall adopt rules and procedures necessary to implement the program, including qualifications, required fees, minimum standards for certification, training and standards of conduct of confidential intermediaries, and shall establish the fees that may be charged by a confidential intermediary.

b. In addition to the requirements of ACJA § 7-201(D), A.R.S. § 8-543(A) states: “The administrative office of the courts shall establish a sibling information exchange program to facilitate contact between a former dependent child and the child's sibling or siblings.”

2. Role and Responsibilities of the Director. These responsibilities are contained in ACJA § 7-201(D).

3. Role and Responsibilities of the Deputy Director. These responsibilities are contained in ACJA § 7-201(D).

4. Role and Responsibilities of Division Staff. These responsibilities are contained in ACJA § 7-201(D).

5. Confidential Intermediary Board. In addition to the requirements of ACJA § 7-201(D), the following requirements apply:

a. The confidential intermediary board is established, comprised of the following eleven members:

- (1) Four certified confidential intermediaries who have been confidential intermediaries for no less than five years;
- (2) One superior court judicial officer or trial court administrator;
- (3) One attorney;

- (4) Two public members;
- (5) One clerk of the superior court or designee;
- (6) One adoption agency related representative; and
- (7) One additional member appointed by the chief justice of the supreme court.

b. The board shall meet no less than two times per year for regular meetings.

6. Fund. The division staff shall deposit all collected fees in the confidential intermediary and fiduciary fund, in accordance with A.R.S. § 8-135(A). This fund consists “of the monies received pursuant to § 12-284.03, subsection A, paragraph 8, § 36-341, subsection B, §14-5651, subsection A, legislative appropriations, donations, fees, grants and contracts to implement the confidential intermediary program established by § 8-134 and the sibling information exchange program established pursuant to § 8-543... The supreme court shall administer the fund subject to legislative appropriation.”

E. Initial Certification.

1. Application for Initial Certification. In addition to the requirements of ACJA § 7-201(E), the applicant shall meet the following requirements:
 - a. Fingerprinting. A.R.S. § 8-134(K) provides: “In carrying out the provisions of this section the supreme court shall require applicants for a confidential intermediary certificate to furnish fingerprints and the supreme court shall obtain criminal history record information pursuant to § 41-1750.”
 - b. Initial Training. The division staff shall provide initial training for confidential intermediary applicants no less than one time per year. The training shall consist of a minimum of twelve hours of instruction. All applicants for initial certification shall attend the entire initial training session.
 - c. Fees. An applicant shall pay the fees for certification specified in subsection (K).
2. Qualifications for Initial Certification. In addition to the requirements of ACJA § 7-201, an applicant for certification as a confidential intermediary shall meet the following minimum qualifications and be:
 - a. 21 years of age or more;
 - b. A citizen of the United States or legal resident; and
 - c. In compliance with all requirements for application for initial certification pursuant to ACJA § 7-201 and subsection (E).
3. Examination. In addition to the requirements of ACJA § 7-201(E), the division staff shall administer the examination no less than one time per year in conjunction with the initial training.

4. Decision Regarding Certification. These requirements are contained in ACJA § 7-201-(E).
5. Exemption from Certification. No certification is required of any agency licensed by the state or the Arizona Department of Economic Security pursuant to A.R.S. § 8-126-(1).

F. Role and Responsibilities of Certificate Holders. In addition to the requirements of ACJA § 7-201-(F), the following provisions apply to confidential intermediaries:

1. Standards of Conduct. Each confidential intermediary shall adhere to the standards of conduct in subsection (J), ~~and~~ A.R.S. § 8-134(I) and A.R.S. § 8-543(C).
2. Identification. When accessing files related to a search, a confidential intermediary shall provide the valid photo identification issued by the confidential intermediary program ~~with the request for appointment form identifying the individual as the confidential intermediary appointed to the case.~~
3. Parties. A confidential intermediary shall provide services only to those parties who are eligible pursuant to A.R.S. § 8-134(A) or A.R.S. § 8-543(B).

a. Adoption Searches.

(1) A.R.S. § 8-134(A) provides:

- A. Any of the following persons may use the services of a confidential intermediary who is listed with the court:
 1. The adoptive parents of an adoptee who is at least eighteen years of age or, if the adoptive parents are deceased, the adoptee's guardian.
 2. An adoptee if the adoptee is at least eighteen years of age.
 3. If an adoptee is deceased, the adoptee's spouse if the spouse is the legal parent or guardian of any child of the adoptee.
 4. If an adoptee is deceased, any progeny of the adoptee who is at least eighteen years of age.
 5. Either of the birth parents of an adoptee.
 6. If the birth parent of an adoptee is deceased, the parent of the birth parent.
 7. A biological sibling of the adoptee if the sibling is at least eighteen years of age.

b. (2) A.R.S. § 8-134 further provides:

- G. On receipt of a written statement from a physician that explains in detail how a health condition may seriously affect the health of the adoptee or a direct descendant of the adoptee, the court shall order the confidential intermediary program to appoint a confidential intermediary. The confidential intermediary shall make a diligent effort to notify an adoptee who has attained eighteen years of age, an adoptive parent or guardian of an adoptee who has not attained eighteen years of age or a direct descendant of a deceased adoptee that the nonidentifying information is available and shall be provided on written request.
- H. On receipt of a written statement from a physician that explains in detail why a serious health condition of the adoptee or a direct descendant of the adoptee should be communicated to the birth parent or biological sibling to enable the birth parent or biological sibling to make an informed medical decision, the court shall order the confidential intermediary program to appoint a confidential intermediary. The confidential intermediary shall make a diligent effort to notify those individuals that the nonidentifying information is available and shall be provided on written request.

b. Sibling Information Searches

(1) A.R.S. § 8-543(B) provides:

B. The following persons may participate in the program:

1. An adult who is a former dependent child.
2. A juvenile who is a former dependent child, through any of the following:
 - (a) The juvenile's adoptive parent.
 - (b) The juvenile's guardian.
 - (c) The juvenile's biological parent if that person has legal custody of the child and is not a party to a pending dependency proceeding.
3. The adult sibling of a former dependent child.

4. Sharing of Information.

a. Adoption Searches.

(1) A.R.S. § 8-134 provides:

- C. [A] confidential intermediary may inspect documents compiled pursuant to this article. Documents include the court records, division records, agency records and maternity home records. The confidential intermediary shall keep confidential all information obtained during the course of the investigation. The intermediary shall use confidential information only to arrange a contact or share information between the person who initiates the search and the person who is the subject of the search. A confidential intermediary shall review the court record before making any contact with an adoptee to determine if an affidavit has been filed pursuant to subsection E of this section. Except as provided pursuant to subsection A, paragraphs 1, 2, 4 and 7 and subsection G of this section, a confidential intermediary shall not contact persons under twenty-one years of age.
- D. The confidential intermediary shall obtain written consent from the person who initiated the search and the person who is the subject of the search before arranging for the sharing of identifying information or a contact between them. If the confidential intermediary discovers the subject of the search is deceased or that the identity of the birth father was unknown to or not revealed by the birth mother, the confidential intermediary shall share this information with the person initiating the search. If the confidential intermediary, after a diligent effort, is unable to locate the subject of the search to obtain written consent to share information, the confidential intermediary shall share this information with the person initiating the search and prepare and place with the compiled documents a written report describing search efforts. If the person who initiated the search petitions the court to release identifying information, the court shall review the report prepared by the confidential intermediary and shall decide if the information may be released and in what manner the information may be released if the court determines there is good cause.
- E. An adoptive parent who has not informed an adoptee that the adoptee was adopted may file an affidavit so stating with the court where the adoption took place. The affidavit may be withdrawn at any time by the adoptive parent. If an affidavit is a part of the court record, the confidential intermediary shall not make contact with the adoptee unless the adoptive parent withdraws the affidavit and grants permission in writing or the adoptee has filed an affidavit stating that the adoptee knows about the adoption and wishes to make contact with the birth parent.
- F. A birth parent who has not informed the parent's biological offspring of

the existence of the adoptee may file an affidavit so stating with the court where the adoption took place. The affidavit may be withdrawn at any time by the birth parent. If an affidavit is a part of the court record, the confidential intermediary shall not make contact with the biological sibling unless the birth parent withdraws the affidavit and grants permission in writing or the biological sibling has filed an affidavit stating that the biological sibling knows about the adoptee and wishes to make contact with the adoptee.

b. Sibling Information Searches.

(1) A.R.S. § 8-543 provides:

C. A person participating in the program shall use a confidential intermediary who is certified pursuant to section 8-134. The confidential intermediary may access court, division and agency records. The confidential intermediary must keep confidential all information the intermediary obtains during the course of the investigation and may use this information only to arrange a contact or to share information between the person who initiates the search and the person who is the subject of the search. The confidential intermediary shall not contact any person who is under eighteen years of age.

D. If a former dependent child does not wish to be contacted by the child's sibling or siblings the former dependent child may file an affidavit so stating with the court. If an affidavit is part of the court record, the confidential intermediary shall not make contact with the former dependent child unless the former dependent child withdraws the affidavit and grants permission in writing or the former dependent child has filed an affidavit stating that the former dependent child knows about the sibling or siblings and wishes to make contact with the sibling or siblings.

5. Notice of Withdrawal. A confidential intermediary may withdraw from a search for any reason.
 - a. If a confidential intermediary withdraws from a search, the confidential intermediary shall submit a notice of withdrawal form to division staff for that search.
 - b. The confidential intermediary shall submit to division staff a finalization report for each case the confidential intermediary withdraws from, pursuant to subsection (F)(6).
6. Finalization Report. A confidential intermediary shall file with division staff a finalization report on all completed searches or searches where the confidential intermediary has

withdrawn within 45 days of the withdrawal. These requirements also apply when a confidential intermediary voluntarily surrenders their certificate or their certificate is placed on inactive status.

a. The finalization report shall include:

- (1) A copy of the consent or refusal documents;
- (2) Documentation of a consultation or mentoring agreement;
- (3) A copy of the file review statement; and
- ~~(4) Original appointment form issued by division staff; and~~
- ~~(5)~~ (4) A summary report of the search process and outcome.

~~b. The confidential intermediary shall file a copy of the finalization report with the juvenile court in the county the adoption was finalized. The finalization report shall include:~~

- ~~(1) Original consent or refusal documents;~~
- ~~(2) Documentation of a consultation or mentoring agreement; and~~
- ~~(3) A summary report of the search process and outcome.~~

7. Retention of Records. A confidential intermediary shall maintain all search related documentation, including receipts for every search for no less than five years.

8. Voluntary Surrender or Request for Inactive Status. In addition to the requirements of ACJA § 7-201(E)(7) and (E)(8), when a confidential intermediary voluntarily surrenders their certificate or is placed on inactive status, the confidential intermediary shall:

- a. Submit a notice of withdrawal form pursuant to subsection (F)(5) for each open search approved for the confidential intermediary;
- b. Provide notice of the withdrawal to each affected client; and
- c. Submit the finalization report pursuant to subsection (F)(6).

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

1. Expiration Date. All certificates expire at midnight on October 31, 2006 and every even-numbered year thereafter.
2. Continuing Education. All confidential intermediaries shall complete at least twelve hours of continuing education pursuant to subsection (L).

H. Complaints, Investigations, Disciplinary Proceedings and Certification and Disciplinary Hearings. These requirements are contained in ACJA § 7-201(H).

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

J. Standards of Conduct. The following standards of conduct apply to all confidential intermediaries pursuant to A.R.S. § 8-134(I) and A.R.S. § 8-543 to establish minimum standards for performance by confidential intermediaries and to ensure confidentiality of the search and consent process.

1. Confidentiality.

- a. The confidential intermediary shall keep paramount in all actions the importance and significance of confidentiality. The confidential intermediary shall exercise extreme care and diligence in respecting the privacy and confidentiality of all parties involved in the search.
- b. The confidential intermediary shall keep confidential all information obtained during the course of the search and shall use said confidential information only to arrange a contact or to share that information which is permitted by A.R.S. § 8-134 and A.R.S. § 8-543 between the person who initiated the search and the person who is the subject of the search.
- c. The confidential intermediary shall review the court records to determine whether an affidavit has been filed by a party consenting to or blocking contact and act according to the wishes expressed by such an affidavit.
- d. The confidential intermediary shall perform duties and responsibilities pursuant to Arizona laws relating to adoption including limitations on the release of information.
- e. The confidential intermediary shall maintain required records in a professional manner while protecting the confidentiality of information contained in the records.
- f. The confidential intermediary, having located the sought-after party, shall divulge only that information necessary to allow the client and located party to make an informed decision whether or not to consent to the release of identifying information. In order to meet the requirements of informed consent, the confidential intermediary shall share only the information necessary for the physical safety and protection of the parties and their families. The confidential intermediary shall present such information in a nonjudgmental manner.
- g. On a case-by-case basis, the confidential intermediary may consult with another confidential intermediary sharing only that information on a case which is necessary for the specific purpose of soliciting ideas or information that would assist the confidential intermediary in carrying out the search to arrange a contact. The discharge summary finalization report shall clearly designate the consulting confidential intermediary. All confidentiality restrictions apply to both confidential intermediaries.

- h. The confidential intermediary may act as a mentor to assist an inexperienced confidential intermediary. The inexperienced confidential intermediary and the mentoring confidential intermediary may share confidential information for the purpose of instruction for the result of an increased skill level and a successful search. The request for appointment form and the ~~discharge summary~~ finalization report shall clearly designate the mentoring confidential intermediary. All confidentiality restrictions apply to both confidential intermediaries.

2. Skills and Knowledge.

- a. The confidential intermediary shall demonstrate adequate skills and knowledge to perform the work of a confidential intermediary and shall fulfill ongoing continuing education requirements to maintain professional growth as specified by ACJA § 7-201 and subsection (L).
- b. The confidential intermediary has an obligation to have knowledge and keep informed of all current and applicable laws regarding adoption and sibling information exchange issues.
- c. The confidential intermediary shall inform the parties of the availability of resources for support.
- d. The confidential intermediary has a responsibility to maintain a working knowledge of documents and information customarily contained in court and agency files.
- e. The confidential intermediary shall possess the necessary verbal and written communication skills sufficient to perform the confidential intermediary role, including an aptitude for communicating in person, by telephone and by correspondence.
- f. The confidential intermediary shall manage each case proficiently. Skills required include, but are not limited to, skills necessary to perform the search, make contact, maintain records and discharge the case in a timely fashion.
- g. The confidential intermediary shall keep the client reasonably informed about the status of the search and promptly comply with reasonable requests for information.
- h. The confidential intermediary shall prepare complete, accurate and understandable reports and discharge summaries.
- i. The confidential intermediary shall conduct each search demonstrating efforts appropriate to the case.
- j. The confidential intermediary shall perform a diligent and expedient search if the search is a court-ordered medical search.
- k. The confidential intermediary shall otherwise perform a search using proper diligence

pursuant to the agreement between the confidential intermediary and client.

3. Fees and Expenses.

- a. The confidential intermediary shall charge only those fees and expenses that are reasonable in amounts and necessarily incurred in order to conduct the search and provide services pursuant to Arizona law, ACJA § 7-201, this section and administrative orders adopted by the supreme court.
- b. The confidential intermediary shall not charge more than the amounts permitted pursuant to subsection (M).
- c. The confidential intermediary shall return to the client all fees collected in advance but not earned.

4. Sensitivity and Professionalism.

- a. The confidential intermediary shall exercise the highest degree of sensitivity and professionalism in all interactions with clients, the party located and others with whom they come in contact during the search. This includes the ability to empathize with others, be discreet in dealing with confidential information and recognize the emotions of ~~adoption members~~ all involved parties.
- b. The confidential intermediary shall strive to develop professional objectivity regarding biases, attitudes and beliefs about adoption, ~~and~~ reunion and sibling information exchange issues.
- c. The confidential intermediary shall demonstrate the ability to work with individuals regardless of differing culture, ethnicity or lifestyle.
- d. The confidential intermediary shall not remove adoption case or sibling information records from agency or court files or falsify or alter records.
- e. The confidential intermediary shall not use materials or employ methods that are not consistent with the role of a confidential intermediary and shall not use materials or employ methods for personal benefit or in ways that conflict with the goals and role of a confidential intermediary.
- f. The confidential intermediary shall not assume the role of a therapist or counselor when acting in the capacity of a confidential intermediary, even if otherwise qualified to do so, but may provide initial education and information. A confidential intermediary shall demonstrate understanding of how the confidential intermediary role differs from that of a counselor or an advocate.
- g. The confidential intermediary shall not provide or offer to provide legal advice in the role of a confidential intermediary.

- h. The confidential intermediary shall not violate any rules or policies regarding the confidential intermediary or sibling information exchange programs as established by the supreme court or conduct themselves in a manner that would reflect adversely on the judiciary, courts or other agencies involved in the administration of justice.

5. Ethics.

- a. The search and reunion of adopted individuals, adoptive parents and birth parents and former dependant children are highly charged emotionally. Because the primary sources of information about the unknown parties are confidential, the confidential intermediary is held to the highest standards of trust, impartiality and respect in the performance of services.
- b. The confidential intermediary shall perform services in a manner consistent with legal and ethical standards.
- c. The confidential intermediary shall not assume the role of an advocate or use coercion or undue influence to persuade any party to the search to take or not to take any action.
- d. The confidential intermediary shall be cognizant of personal limitations of knowledge and experience and may consult other experienced confidential intermediaries about a case if ACJA §§ 7-201, -203, administrative orders, Arizona statutes, standards of conduct or training manuals do not provide the guidance necessary to address difficult ethical issues. Nonetheless, the confidential intermediary is ultimately responsible for decisions made in regard to the case.
- e. The confidential intermediary shall avoid any conflict of interest or the appearance of a conflict of interest.
 - (1) The confidential intermediary shall not accept ~~an appointment to a case~~ a search request or continue on a case involving a relative or business associate or a personal friend where the relationship is such that the relative, business associate or personal friend may exert undue pressure on the confidential intermediary.
 - (2) The confidential intermediary shall not accept ~~an appointment or continue~~ a search request on any case where the confidential intermediary cannot act in an objective manner or perform services as required.
 - (3) The confidential intermediary shall not accept ~~an appointment~~ a search request or serve as a confidential intermediary for the purpose of taking advantage of any party to the search for personal or professional gain.
- f. The confidential intermediary shall avoid misrepresenting the purposes of the confidential intermediary or sibling information exchange programs, the confidential intermediary's qualifications, fees or any other information relating to the role of the confidential intermediary. The confidential intermediary shall avoid misrepresenting to any client or any party located any circumstances or information specific to a case.

g. The confidential intermediary shall avoid utilizing certification in any manner to gain access to information or services for purposes other than those of the confidential intermediary program.

6. Compliance. The confidential intermediary shall perform all services and discharge all obligations in accordance with current Arizona and federal laws, ACJA §§ 7-201, -203 and administrative orders adopted by the supreme court governing the certification of confidential intermediaries.

K. Fee Schedule. Pursuant to A.R.S. § 8-134(I) and A.R.S. § 8-543, the supreme court shall administer the confidential intermediary and sibling information exchange programs. The court shall adopt rules and procedures necessary to implement the programs, including qualifications, required and permissible fees.

1. Initial Certification

a. Individual Initial Certification

(1) For certification expiring more than one year after application date	\$100.00
(2) For certification expiring less than one year after application date	\$ 50.00

b. Fingerprint Application Processing Fee

(Rate as set by Arizona law and subject to change.)

c. Initial Training Session \$100.00

d. Government Agency Initial Certification

(Applicable to all designated agency representatives and agency individuals seeking training or certification. The initial certification fee is waived, applicants are required to pay only the fees for training and fingerprinting.)

2. Examination Fees

a. Applicants for Initial Certification \$ 50.00

b. Reexaminations \$ 50.00

(For any applicant who did not pass the examination on the first attempt. The \$50.00 fee applies to each reexamination.)

c. Reregistration for Examination \$ 50.00

(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)

3. Renewal Certification

- a. Individual Renewal Certification Fee \$100.00
 - b. Governmental Agency Renewal Certification
(Applicable to all designated agency representatives and agency individuals seeking renewal of certification. The renewal certification fee is waived.)
 - c. Late Renewal \$ 50.00
 - d. Inactive Status \$ 50.00
 - e. Delinquent Continuing Education \$ 50.00
4. Miscellaneous Fees.
- a. Replacement of Certificate, Badge or Name Change \$ 25.00
 - b. Public Record Request per Page Copy \$.50
 - c. Certificate of Correctness of Copy of Record \$ 18.00
 - d. Reinstatement Application \$100.00
(Application for reinstatement to certification after suspension or revocation of certification.)
 - e. Initial Training Manual for Purchase Separately from Certification \$ 75.00

L. Continuing Education Policy.

1. Purpose.

- a. Ongoing continuing education is one method to ensure confidential intermediaries maintain competence in the field after certification is obtained. Continuing education also provides opportunities for confidential intermediaries to keep abreast of changes in the profession and the Arizona judicial system.
- b. Pursuant to ACJA § 7-201(D) the board shall make recommendations to the supreme court regarding rules, policies, and procedures to implement and enforce the requirements regarding confidential intermediaries, including continuing education. This subsection is intended to provide direction to confidential intermediaries to ensure compliance with the continuing education requirements and to provide for equitable application and enforcement of the continuing education requirements.

2. Applicability. Pursuant to subsection (G)(2):
 - a. All confidential intermediaries shall attend six hours of approved continuing education each year for a total of twelve hours of continuing education during each certificate period. A confidential intermediary shall complete a minimum of one hour each year of the continuing education requirement in an ethics based curriculum. The confidential intermediary shall submit documentation of completion of the continuing education requirement upon the request of the board or division staff. Hours of participation are not transferable to certification periods other than the one in which the participation occurred.
 - b. From and after November 1, 2006 and for every renewal of certification after that date, all confidential intermediaries shall comply with these adopted policies regarding continuing education.
3. Responsibilities of Confidential Intermediaries.
 - a. It is the responsibility of each confidential intermediary to ensure compliance with the continuing education requirements, maintain documentation of completion of continuing education, and to submit the maintained documentation to division staff upon the request of the board or division staff.
 - b. Upon request, each confidential intermediary shall provide any additional information required by the board or division staff when reviewing renewal applications and continuing education documentation.
 - c. Continuing education not recognized for credit upon board review does not in any way relieve the confidential intermediary of the responsibility to complete the required hours of continuing education.
4. Authorized Continuing Education Activities.
 - a. Continuing Education. Continuing education activity shall address areas of proficiency, competency, and performance of a confidential intermediary, impart knowledge and understanding of the profession, search techniques, Arizona court jurisdiction and responsibilities, Arizona tribal court system, cultural issues, administrative matters and areas involving adoption, ~~and~~ the adoption triad, and dependency.
 - b. Conferences. A confidential intermediary may receive continuing education credit for attendance at a conference relevant to the profession. A confidential intermediary may receive 100 percent of the continuing education credits for attendance at the conference, if the conference is directly related to the confidential intermediary profession. Introductory remarks, breaks, meals, business meetings, and general sessions of the conference do not qualify as continuing education hours.
 - c. University, College and Other Educational Institution Courses. A confidential

- intermediary may receive continuing education credit for a course provided by a university, college or other institutionally accredited educational program if the confidential intermediary successfully completes the course with a grade of "C" or better or a "pass" in a pass/fail grading system. A confidential intermediary may receive continuing education credit if the course is relevant to the confidential intermediary profession, adoption, adoption searches or a related field, up to two times the number of credit hours awarded by the educational institution. The maximum hours of continuing education credits earned from educational course work shall not exceed 50 percent of the total number of continuing education hours required for renewal.
- d. **Authoring or Coauthoring Articles.** A confidential intermediary may receive continuing education credit for authoring or coauthoring an article directly related to areas of adoptions, adoption searches or triad issues, if the article is published in a state or nationally recognized professional journal and if the article is a minimum of 1,000 words in length. A confidential intermediary may earn a maximum of one hour of continuing education credit each year for authoring of articles. A confidential intermediary shall not receive credit for the same article published in more than one publication or republished in the same publication in later editions.
 - e. **Self Study.** A confidential intermediary may receive continuing education credit for self study activities, including correspondence courses, procedure manuals, video and audio tapes, online computer seminars, and other methods of independent learning. The maximum hours of continuing education credits earned in a self study format shall not exceed 50 percent of the total number of continuing education hours required for renewal.
 - f. **Serving as Faculty.** A confidential intermediary may receive continuing education credit for serving as an instructor, speaker, panel or faculty member of an instructional seminar directly related to the profession of confidential intermediary. A confidential intermediary may receive continuing education credit for the presentation time and up to two hours of preparation time for each hour of presentation. The maximum hours of continuing education credits earned as faculty credit shall not exceed 50 percent of the total number of continuing education hours required for renewal and a confidential intermediary shall not receive duplicate credit for repeating a presentation during the certificate period.
5. **Minimum Time.** Each continuing education activity shall consist of at least 30 minutes of actual clock time spent by a confidential intermediary in actual attendance at and completion of a continuing education activity. "Actual clock time" includes the total number of hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the first 30 minutes of a continuing education activity, credit shall be recognized in fifteen minute increments.
 6. **Maximum Credit.** Unless the board otherwise determines a continuing education activity is directly related to the confidential intermediary profession, a confidential intermediary shall not

receive more than 50 percent of the credit requirement for the certificate period through one activity.

7. Non-Qualifying Activities.

a. The following activities shall not qualify for continuing education credit for confidential intermediaries:

- (1) Program training completed to qualify for certification;
- (2) Mentoring. A confidential intermediary shall not receive continuing education credit for mentoring activities;
- (3) Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions or program orientation;
- (4) Serving on committees or councils or as officers in a professional organization; and
- (5) Activities completed as required by the board as part of a disciplinary action.

b. Repeat of an Activity. Continuing education activities repeated during a certificate period do not qualify for credited duplicate hours.

c. If a confidential intermediary attends part, but not all of a continuing education activity, the confidential intermediary is not eligible to claim partial credit completion.

8. Documentation of Attendance or Completion. When attending or completing a continuing education activity, each confidential intermediary shall obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation shall include the:

- a. Name of the sponsor;
- b. Name of the participant;
- c. Topic of the subject matter;
- d. Number of hours actually attended or the number of credit hours awarded by the sponsoring entity;
- e. Date and place of the program; and
- f. Signature of the sponsor or an official document from the sponsoring entity.

9. Compliance and Non-Compliance.

a. Affidavit of Compliance. A confidential intermediary shall submit an affidavit of continuing education compliance when applying for renewal of certification. The affidavit shall be in the format provided by the division staff.

- b. Proration of Continuing Education Requirement. A confidential intermediary whose certificate expires less than one year from the effective date of certification shall complete no less than six hours of continuing education credit during the balance of the certification period. In subsequent certification periods, the confidential intermediary shall complete the biennial twelve hour continuing education requirement. Proration of the continuing education requirement does not apply to confidential intermediaries who previously held certification and allowed their certification to lapse.
- c. Extension or Waiver of Continuing Education Requirements. A confidential intermediary seeking renewal of certification who has not fully complied with the continuing education requirements may request an extension or waiver of the continuing education requirements under the following conditions:
 - (1) The confidential intermediary submits a notarized written statement to the board, explaining the facts regarding non-compliance and requesting an extension or waiver of the requirements no later than the September 15th preceding the October 31st expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the confidential intermediary to complete the continuing education requirement.
 - (2) The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the confidential intermediary has been unable to devote sufficient hours to fulfill the requirements during the certificate period because of:
 - (a) full-time service in the armed forces of the United States during a substantial part of the certificate period;
 - (b) an incapacitating illness documented by a statement from a currently licensed physician;
 - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed physician; or
 - (d) any other special circumstances the board deems appropriate.
 - (3) A confidential intermediary whose certificate has been suspended or revoked by the board is not eligible to request a waiver or extension of the continuing education requirement.
 - (4) The board or division staff may request documentation or additional information from a confidential intermediary applying for renewal to verify compliance with the continuing education requirements. If the confidential intermediary fails to provide the requested documentation or additional information, the board may deem the application for renewal incomplete and deny renewal of certification.
- d. Random Audits of Continuing Education Compliance. During each renewal review period, the board shall direct division staff to randomly select a specified number of confidential intermediaries to demonstrate continuing education requirement compliance through submission of proof of continuing education participation. Refusal or failure to respond to a request from the board or division staff for audit documentation of continuing education compliance may result in denial of renewal of certification or disciplinary action pursuant to ACJA § 7-201 and this section.

- e. A confidential intermediary who fails to complete the continuing education requirement, completes any portion of the continuing education requirement late, falsifies documents, or misrepresents attendance or an activity is subject to any or all of the following actions of the board:
 - (1) Assessment of the delinquent continuing education fee;
 - (2) Denial of renewal of certification; and
 - (3) Disciplinary action pursuant to ACJA § 7-201(H) and this section.

10. Board Decision Regarding Continuing Education Compliance.

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

M. Client Fee Schedule. Pursuant to A.R.S. § 8-134(I) and A.R.S. § 8-543, the supreme court shall administer the confidential intermediary and sibling information exchange programs. The court shall adopt rules and procedures necessary to implement the programs, including required and permissible fees. A confidential intermediary may charge clients an amount not to exceed the fees listed in this subsection for adoption search related services.

- 1. Initial ~~Appointment~~ Search Set-Up Fee \$100.00

(This is a one time fee the confidential intermediary may charge and collect for services that result in a search ~~appointment~~ services. These services include initial review and consultation related to services ~~and processes and~~

~~initial application with the confidential intermediary program to establish the search appointment.)~~

2. Investigation/Research Hourly Rate \$100.00
(Maximum rate allowable.)
3. Bookkeeping/Travel Hourly Rate \$ 50.00
(Maximum rate allowable.)
4. Direct Costs and Expenses Billable at Rates Incurred
(Current state of Arizona mileage allowance as posted on the Arizona government's website.)