

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
AMENDING ARIZONA CODE OF	)	Administrative Order
JUDICIAL ADMINISTRATION	)	<u>No. 2010 - 27</u>
§ 6-205: DRUG TREATMENT AND	)	(Affecting Administrative Orders
EDUCATION FUND	)	No. 2001-68, 2002-69 and 2009-38)
	)	

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Pursuant to the Arizona Code of Judicial Administration § 1-202(E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council. The standardized assessment or reassessment tool referenced in G(1)(a) and (b) is the Offender Screening Tool (OST). That tool uses the term “drug abuse” rather than “substance abuse.” In order to have the code reflect the correct terminology of the instrument used, it is necessary to substitute the term drug abuse domain for substance abuse domain where used. Additionally, the amended code changes the term “substance abuse” to “drug abuse” throughout to reflect the precise words of the statute.

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

IT IS ORDERED that Arizona Code of Judicial Administration § 6-205 is amended as indicated on the attached document. All other provisions of § 6-205 as adopted, remain unchanged and in effect.

Dated this 24th day of February, 2010.

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REBECCA WHITE BERCH  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 2: Adult Services**  
**Section 6-205: Drug Treatment and Education Fund**

**A. Definitions.** In this section the following definitions apply:

“Administrative director” means both the administrative director of the Administrative Office of the Courts (AOC) and the director’s designee.

“Case record” means any documentation pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

“Co-payment” means an amount that a probationer pays to the probation department or a licensed provider for treatment and education services.

“Controlled substance” means “a drug, substance or immediate precursor in schedule I through V of article 2 of this chapter” as provided in A.R.S. § 36-2501(A)(3).

“Court” means superior court.

“~~Drug Substance~~ abuse education” means an intervention service designed to provide information, knowledge, understanding of drug substance abuse and motivational enhancement.

“~~Drug Substance~~ abuse evaluation” means administration of an Administrative Office of the Courts (AOC) approved assessment by a qualified or licensed person to determine morbidity and target intervention strategies.

“Evidence-based practice” means strategies that have been shown through current, scientific research to lead to a reduction in recidivism.

“Intensive outpatient treatment” means a treatment service for probationers in a non-residential setting that consists of a minimum of three, two-hour face-to-face group sessions per week. One, one-hour individual session may be substituted for one, two-hour group session.

“Lapse/Relapse prevention” means a service for probationers in a non-residential setting that facilitates maintaining abstinence as well as provides help for probationers who experience relapse.

“Long term residential treatment” means any type of treatment or counseling for alcohol and other drug disorders where the probationer resides at the facility for 31 days or more.

“Motivational enhancement” means a client-centered counseling approach for initiating behavior change by helping probationers resolve ambivalence about engaging in treatment and stopping drug use.

“Short term residential treatment” means any type of treatment or counseling for alcohol and other drug disorders where the probationer resides at the facility for 30 days or less.

“Standard outpatient treatment” means a treatment service for probationers in a non-residential setting that consists of a minimum of one, 90 minute face-to-face group session per week with a maximum of five face-to-face contact hours per week. One, one-hour individual session may be substituted for one, 90 minute group session.

## **Sections B through C – No Changes.**

### **D. General Administration.**

1. The Administrative Office of the Courts (AOC) shall:
  - a. Administer the Drug Treatment and Education Fund (DTEF) on behalf of the supreme court;
  - b. Monitor local DTEF programs;
  - c. Prepare written material setting forth various techniques, practices, guidelines and other recommendations regarding the operation and management of the DTEF and distribute this material to judges and probation personnel;
  - d. Inspect, audit, or have audited the records of any court using the DTEF;
  - e. Prescribe and adopt procedures, forms and reports necessary for financial administration, program administration, operation and management of the DTEF;
  - f. Conduct seminars and educational sessions regarding the purpose and operation of the DTEF;
  - g. Establish performance measures and expectations in consultation with the court for determining compliance with each court’s DTEF program plan;
  - h. Assist courts in developing their DTEF program plans;
  - i. Provide general assistance to courts on the operation of the DTEF;
  - j. Adopt other administrative practices and procedures; consistent with this code, as necessary for the administration of the DTEF; and

k. Pursuant to A.R.S. § 13-901.02(D):

... cause to be prepared at the end of each fiscal year after 1997 an accountability report card that details the cost savings realized from the diversion of persons from prisons to probation. A copy of the report shall be submitted to the governor and the legislature, and a copy of the report shall be sent to each public library in the state.

1. Approve any and all assessments used to perform drug substance abuse evaluations pursuant to ACJA § 6-205.
2. For purposes of uniform administration, each adult probation department receiving DTEF monies shall comply with this code.

### **Sections E through F – No Changes.**

### **G. Program Operations.**

1. Each probation department shall have a written policy and procedure detailing the management and provision of DTEF services in their department, including, but not limited to:
  - a. Establishing a process to identify and refer for participation in an appropriate drug abuse treatment or education or treatment program, probationers sentenced pursuant to A.R.S. § 13-901.01. The determination of whether treatment or education is needed shall be based on the risk score in the drug substance abuse domain of the standardized assessment or reassessment and any other relevant information. Probationers determined to need treatment shall be evaluated with an AOC approved assessment administered by a qualified or licensed person, in consultation with the adult probation department, to determine the level of drug substance abuse treatment necessary. At a minimum, probationers sentenced pursuant to A.R.S. § 13-901.01 shall receive drug substance abuse education.
  - b. Establishing a process to identify and refer for drug abuse education or treatment, probationers not sentenced pursuant to A.R.S. § 13-901.01, once those who have been sentenced pursuant to A.R.S. § 13.901.01 have been served and resources permit. The determination of whether treatment or education is needed shall be based on the risk score in the drug substance abuse domain of the standardized assessment or reassessment and any other relevant information. Probationers determined to need treatment shall be evaluated with an AOC approved assessment administered by a qualified or licensed person, in consultation with the adult probation department, to determine the level of drug substance abuse treatment necessary.

- c. Assessing co-payment utilizing an AOC approved standardized tool for assessing ability to pay; and
  - d. Utilizing a quality assurance process for data entry into APETS regarding DTEF funded services and outcomes for the compilation of DTEF performance measures.
2. Each probation department shall have a process by which each participating court enters into contractual agreements with qualified human services agencies to provide drug treatment and education services.
  - a. Participating courts are authorized to combine resources and jointly enter into such contractual agreements.
  - b. Participating courts shall develop contractual agreements pursuant to the Judicial Branch Procurement Rules or local procurement policies.
  - c. All contractual agreements shall contain a provision acknowledging the authority of the AOC to inspect their records or conduct audits.
  - d. All contractual agreements shall contain specifications that meet the drug treatment and education fund requirements.
  - e. All treatment services shall be contracted at the local court level consistent with local procurement requirements.
  - f. All treatment contracts shall contain state minimum insurance requirements.
3. All agencies or organizations entering into contractual agreements with a participating court shall hold licenses issued by the Arizona Department of Health Services, Office of Behavioral Health Licensing. The participating court shall retain a copy of the agency or organization's most recent license.
4. Each probation department shall require clinical staff providing treatment services funded by the DTEF to hold licensure with either the Arizona Medical Board, Arizona Board of Psychologist Examiners, or Arizona Board of Behavioral Health Examiners based upon the services rendered.
5. Each probation department shall require all probation department employees or contract service providers that facilitate ~~drug substance~~ abuse education programs to be trained and certified in the delivery of the specific education program.
6. Vendors who are contracted for drug treatment and education services shall not be employed as an adult probation officer.

7. Private practitioners who are contracted for drug abuse treatment and education services shall not sub-contract with others to perform the contracted services, unless approved by the probation department or AOC.
8. Each probation department shall be responsible for the costs incurred for any service rendered which is not in accordance with the court's approved expenditure plan.

#### **H. General Treatment Requirements.**

1. Each probation department shall:
  - a. Utilize an AOC approved standardized tool for assessing a probationer's ability to pay for services, including, but not limited to, the probationer's eligibility for Arizona Health Care Cost Containment System (AHCCCS), private insurance, and other means of payment. The probationer shall choose 1 of 2 methods of payment:
    - (1) The probationer shall pay a sum determined by the AOC approved standardized tool for assessing the ability to pay to the probation department for deposit in the separate DTEF account within the adult probation services fund, or
    - (2) The probationer shall pay a sum determined by the AOC approved standardized tool for assessing the ability to pay directly to the provider who will document these payments as deducted from the monthly invoice for services rendered.
    - (3) Provide to the AOC by August 31 of each year reports summarizing payments made by probationers receiving DTEF funded services.
  - b. Screen all probationers for AHCCCS, Title 19 and Title 21 eligibility. If eligible, the probation officer shall document in offenders' case record. The probation officer shall only place qualified offenders in AHCCCS funded treatment or education programs, if available. This placement shall not cause therapeutic disruption.
  - c. Require all ~~treatment and education~~ drug abuse education and treatment services funded by the DTEF to employ current research or evidence-based intervention strategies for educating or treating drug substance abusing probationers.
  - d. Require all treatment, interventions and services to match the specific needs of the probationer.
  - e. Develop a service delivery continuum which includes, at minimum, the following services:
    - (1) Drug Substance abuse evaluation,
    - (2) Drug Substance abuse education,
    - (3) Standard and intensive outpatient,
    - (4) Residential treatment,
    - (5) Motivational enhancement, and

(6) Lapse/relapse prevention.

- f. Obtain AOC approval prior to adding additional services to the continuum provided in provision (H)(1)(e) of this section. The request shall include documentation of evidence-based research supporting the effectiveness of the additional service.