



SUPREME COURT OF ARIZONA

DEFENSIVE DRIVING PROGRAM ADMINISTRATIVE REQUIREMENTS

Administrative Order No.

90-51

A. Preamble

Pursuant to ARS §28-492 and §28-493 the Supreme Court shall supervise the use of defensive driving schools by the courts in this state. Now, therefore,

It is ordered that the provisions contained herein are hereby established for supervision of said schools and that this order shall replace Administrative Order 89-25.

A. Administration

- 1. Administration of the Defensive Driving Program, the Defensive Driving Program Fund, and the certification and monitoring process for defensive driving schools and instructors that serve as court authorized diversion programs, shall be under the direction of the Administrative Director of the Courts. The Director is authorized to establish policies, procedures, forms and reports necessary to administer the program.
2. The Director may prepare fiscal projections and create a budget based upon those projections for the purpose of administering the Defensive Driving Program.
3. The Director is authorized to allocate and expend funds pursuant to ARS §28-493 for administrative costs associated with the Defensive Driving Program and expend funds to further expedite the processing of all offenses prescribed in Title 28, Chapter 6, Articles 2 through 15. The director may contract for professional services to maintain the defensive driving tracking database pursuant to ARS §29-492(F)(2), assist in the certifying and monitoring of defensive driving schools and instructors pursuant to ARS §28-492(F)(5), and other necessary services.
4. The Director is authorized to appoint advisory groups and/or committees to facilitate implementation and administration of the Defensive Driving Program.
5. The Director is authorized to propose rules which establish criteria for certification of qualified defensive driving schools and instructors used by the courts pursuant to ARS §28-492(F)(3).

## B. Court Requirements

1. A municipal, justice or juvenile court may refer any eligible person to any certified defensive driving school or a court may choose to contract with one or more certified primary providers for defensive driving school services. If a court selects one or more primary providers, the court shall have a written contract with each provider. The Director may require specific provisions to be included in each contract. In selecting primary provider(s), the presiding judge must follow the applicable procurement codes and regulations, but the ultimate authority for selection of the primary provider(s) rests with the presiding judge of each court and not with any other governmental entity.
2. A court may choose to operate a defensive driving school program for the purposes of ARS §28-492 and §28-493. If a court chooses to operate its own defensive driving program, it must adhere to all applicable certification criteria as approved by the Director. The court shall set a school fee that represents only the cost to operate the school.
3. No court officer or employee, voluntary or paid, may own, operate, be employed by, or receive compensation from a defensive driving school except in cases where the court operates a certified defensive driving school.
4. No court officer or employee may accept compensation or incentives, either directly or indirectly, to enroll students in a school or for selection of a specific school as a primary provider.
5. A court shall promptly report violations of the defensive driving school certification criteria as directed in established defensive driving program procedures.
6. The presiding judge of each court may establish a diversion fee to be assessed to each individual attending a defensive driving school. This diversion fee may be changed by the presiding judge twice annually to be effective on January 1 and July 1 of each year. As of July 1, 1991, a court may designate only one diversion fee for all instances under which all defendants may attend a defensive driving course as a court diversion program pursuant to the provisions of ARS §28-492. A court shall notify the administrative office of the courts thirty (30) calendar days prior to the effective date of the change, using the form designated for this purpose. The diversion fee may be waived at the option of the court.
7. When a court orders a person to attend defensive driving school, the court shall provide the person with a written court order or other written document which specifies the

violation date, violation code and any special conditions that the person or school must fulfill. A court may not collect both a diversion fee and a fine from a person ordered to attend a defensive driving school. The court shall note on the court order or other document if the person has been fined for the violation. Where no fine is noted, the defensive driving school will collect the court's diversion fee from the person for attending the course.

C. Defensive Driving Program Fund Requirements

1. Defensive Driving Program Fee. The Director is authorized to set a Defensive Driving Program Fee (DDPF) up to fifteen dollars pursuant to ARS §28-493<sup>1</sup>. The Director may review and adjust the Defensive Driving Program Fee amount as necessary. Until modified by the Administrative Director, the defensive driving program fee is ten dollars which shall be charged to each person who attends a defensive driving school pursuant to a court diversion program or as part of a sentence imposed by a court. The fee shall also be charged to persons attending a defensive driving school in Arizona for an out-of-state violation.
2. Non-Refundability. The Defensive Driving Program Fee shall be collected and remitted by the defensive driving school and shall generally be non-refundable once paid. If the school determines that an individual has demonstrated good cause, the school may refund the defensive driving program fee, only if the school also refunds the school fee and the court diversion fee. Once a person begins a class, the defensive driving program fee shall be non-refundable. Other registration charges may be refundable in accordance with each school's guidelines.
3. Collection of defensive driving fee. The fee collected by a defensive driving school between the first and fifteenth day of the month shall be remitted to the Administrative Office of the Courts for deposit with the State Treasurer in the Defensive Driving Program Fund by the 22nd day of the same month. The fee collected by a defensive driving school between the sixteenth and last day of the month shall be remitted to the Administrative Office of the Courts by the seventh day of the following month. A certified defensive driving school which has no receipts during a reporting period shall submit a report so stating, using the form provided by the defensive driving program for this purpose.

<sup>1</sup>A five dollar Judicial Collection Enhancement Surcharge is collected in addition to the Defensive Driving Program Fee pursuant to ARS §12-114.

4. Collection of court diversion fees. Each defensive driving school shall collect the court's diversion fee pursuant to ARS §28-493. The school shall remit the diversion fee for each individual to the appropriate court according to the schedule set forth in the written contract between the court and the school but not less than once a month. If no contract exists, the fees collected and all supporting information concerning the student's attendance shall be submitted to the court of jurisdiction at least once a month.

D. Modification

These administrative requirements are subject to modification as deemed necessary and any time limit contained herein may be waived at the request of the Administrative Director if agreed to by the Chief Justice.

E. Effective Date

The provisions of this order shall be effective from and after December 1, 1990.

DATED AND ENTERED this 15th day of November, 1990,  
at the State Capitol, Phoenix, Arizona.

ARIZONA SUPREME COURT

✓ FRANK X. GORDON, JR.  
Chief Justice