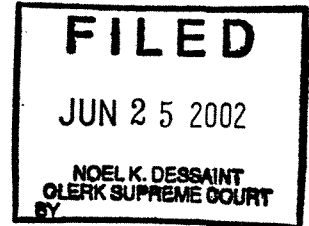


IN THE SUPREME COURT OF THE STATE OF ARIZONA

---



In the Matter of: )  
)  
ARIZONA CODE OF JUDICIAL )  
ADMINISTRATION §6-205: )  
DRUG TREATMENT AND EDUCATION )  
FUND )  
\_\_\_\_\_ )

Administrative Order  
No. 2002- 69  
(Replacing Administrative Order  
No. 2001-68)

The above captioned provision having come before the Arizona Judicial Council on March 14, 2002, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) §§13.901.01 and 13-901.02,

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration replacing Administrative Order No. 2001-68.

Dated this 25th day of June, 2002.

CHARLES E. JONES  
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.

“Alcohol and drug testing” means any method of determining the level or identifiable substances in the body including, but not limited to, breathalyzer tests, blood tests, and urine samples.

“Court” means superior court.

“Day treatment” means a treatment service for probationers in a non-residential setting that consists of a minimum of 5 days per week for 6 hours of face-to-face contact per day.

“Intensive outpatient treatment” means a treatment service for probationers in a non-residential setting that consists of a minimum of 3, 2-hour face-to-face group sessions per week. 1, 1-hour individual session may be substituted for 1, 2-hour group session.

“Lapse/Relapse prevention” means a service for probationers in a non-residential setting that facilitates maintaining abstinence as well as provide 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 1, 90 minute face-to-face group session per week with a maximum of 5 face-to-face contact hours per week. 1, 1-hour individual session may be substituted for 1, 90 minute group session.

“Substance abuse education” means an intervention service for probationers in an outpatient setting for 2 to 12 sessions.

**B. Applicability.** Pursuant to Article VI, Section 3 of the Arizona Constitution and A.R.S. §13-901.02, the following requirements are issued to govern the administration of the Drug Treatment and Education Fund (DTEF) on behalf of the supreme court.

**C. Purpose.** A.R.S. §13-901.01 (D) provides: "If a person is convicted of personal possession or use of a controlled substance as defined in §36-2501, as a condition of probation, the court shall require participation in an appropriate drug treatment or education program administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances."

**D. General Administration.**

1. The AOC shall:

- a. Administer the 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 made available to each public library in the state.”

2. For purposes of uniform administration, each adult probation department receiving DTEF monies shall comply with this code.

**E. Allocation of Funds.**

1. A.R.S. §13-901.02 (B) provides:

Fifty per cent of the monies deposited in the drug treatment and education fund shall be distributed by the administrative office of the supreme court to the superior court probation departments to cover the cost of placing persons in drug education and treatment programs administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances.

2. A.R.S. §13-901.02 (B) further provides: “Such monies shall be allocated to superior court probation departments according to a formula established by the administrative office of the supreme court.”

**F. Program Plan and Financial Management.**

1. Each participating court shall submit an expenditure plan to the administrative director. The expenditure plan and any plan modification shall be consistent with A.R.S. §§13-901.01 and 13-901.02 and this code, and shall outline how the DTEF allocation shall be used to cover the cost of placing persons in drug education and treatment programs. The participating court shall submit the plan within the prescribed time frame and on forms required by the administrative director.
2. Each presiding judge shall submit, in writing, all requests to modify expenditure plans on a form approved by the administrative director.
3. In the event that the administrative director disapproves a plan or plan modification submitted by a court, the presiding judge of the court may request that the administrative director submit the plan to the chief justice for consideration and final determination.
4. On approval of the plan as submitted or modified and the availability of funds, the administrative director shall enter into a written funding agreement with the submitting court for the distribution of funds. The administrative director may amend or terminate funding agreements due to lack of funds, lack of financial need, or the court’s failure to comply with applicable statutes, the approved plan, funding agreement or this code.

5. The administrative director may reallocate funds during the year based on documented need, current use of funds and approved plan or budget modifications.
6. Pursuant to A.R.S. §12-267(B), the county's fiscal officer shall deposit funds received by the court pursuant to A.R.S. §13-901.02 (B) into a separate account within the adult probation services fund.
7. The participating court shall use allocated DTEF monies and interest only for the support and operation of approved DTEF plans.
8. On agreement with a participating court, the administrative director may withhold funds allocated to the court and may authorize direct expenditures for the benefit of the court. The administrative director may also reallocate these funds during the fiscal year.
9. The presiding judge of each participating court shall submit to the AOC, by January 31 of each year, a mid-year financial and program activity report related to the court's plan through December 31. Failure to submit the report in a timely manner may result in financial sanctions.
10. The presiding judge of each participating court shall submit to the AOC, by August 31 of each year, a closing financial and program activity report related to the court's plan through June 30. Failure to submit the report in a timely manner may result in financial sanctions.
11. The presiding judge of each participating court shall return to the AOC, by August 31 of each year, all DTEF funds distributed to the court which are unencumbered as of June 30 and unexpended as of July 31. Failure to revert the unencumbered funds in a timely manner may result in financial sanctions.
12. Each participating court and its probation department shall maintain and provide to the AOC data and statistics as may be required by the administrative director to administer the DTEF.
13. Each participating court and its probation department shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least 5 years from the close of the fiscal year.

**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. Identifying probationers eligible to receive services provided by the DTEF;

- b. Screening, assessing, and the referral processes;
  - c. Obtaining treatment services through the adherence to adopted procurement rules;
  - d. Monitoring DTEF contract and AOC funding agreement requirements;
  - e. Collecting required data elements, data entry, and quality assurance reports;
  - f. Prescribing forms;
  - g. Assessing co-payment; and
  - h. Identifying the process for the collection 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, and
    - d. All contractual agreements shall contain specifications that meet the drug treatment and education fund 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 Licensure. 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 services funded by the DTEF to have a masters degree or higher in a behavioral health discipline and be working toward required certification or be certified by at least one of the following accrediting bodies:
    - a. Arizona Board of Behavioral Health Examiners as a certified substance abuse counselor (CSAC), certified associate counselor (CAC), certified professional counselor (CPC);

- b. Arizona Board of Certified Addictions Counselors as a certified alcohol and drug abuse counselor (CADAC);
  - c. National accreditation of alcohol and drug abuse counselors (NCACI, NCACII, MAC);  
or
  - d. Other professionally recognized substance abuse counseling accreditation approved by the administrative director.
5. Each probation department shall require all uncertified probation department employees or contract service providers who furnish direct service to probationers to have proof of a minimum of 4 hours per month of clinical supervision by key clinical staff who possess both the current substance abuse certification and a masters degree in a behavioral health discipline.
  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 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. Require all treatment and education services subsidized by the DTEF to employ current research or evidence-based intervention strategies for treating substance abusing probationers;
  - b. Require all treatment, interventions and services to be matched to the specific needs of the probationer; and
  - c. Develop a service delivery continuum which includes the following services:
    - (1) Substance abuse education,
    - (2) Standard and intensive outpatient,
    - (3) Residential treatment,
    - (4) Motivational enhancement, and
    - (5) Lapse/relapse prevention.

- d. Obtain approval from the AOC for a service delivery continuum which does not include the five services identified in 1(c) or contains services in addition to the services identified in 1 (c).
- e. Assess probationers that are eligible to receive DTEF funded services for their financial ability to pay for participation in the drug education and treatment program pursuant to A.R.S. §13-901.01(D), and, unless ineligible, shall complete an AHCCCS referral form and Title 19 and/or 21 application. The probationer shall choose 1 of 2 methods of payment:
  - (1) The probationer shall pay to the probation department for deposit in the separate DTEF account within the adult probation services fund, or
  - (2) The probationer shall pay directly to the provider who will document these payments as deducted from the monthly invoice for services rendered.
- f. Provide to the AOC, by August 31 of each year, reports summarizing payments made by probationers receiving DTEF funded services.

#### **I. Screening and Assessment.**

1. Each probation department shall:
  - a. Prior to treatment intervention, administer a validated screening and preliminary assessment instrument that measures risk to re-offend and need for intervention services to probationers eligible to receive DTEF funded services. This instrument shall be normed on a sample Arizona probation population;
  - b. Administer the Arizona Substance Use Survey (ASUS) to probationers eligible to receive DTEF funded services prior to treatment intervention;
  - c. Train and maintain staff competent in the administration and interpretation of the ASUS;
  - d. Require recommendations and referrals to treatment providers be in accordance with the results of the ASUS and other secondary assessments that complement and improve the intervention process; and
  - e. Reassess the probationer's substance abuse problem using the ASUS at 180 days or upon a significant event such as the completion of treatment or other service intervention on all sampled probationers identified by the AOC.