

ARIZONA SUPREME COURT  
Administrative Office of the Courts  
Certification and Licensing Division



**DEFENSIVE DRIVING INSTRUCTOR**

**CANDIDATE STUDY GUIDE**

Defensive Driving Program  
1501 West Washington, Suite 104  
Phoenix, AZ 85007-3231

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## 1. INTRODUCTION

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AUTHORITY	Arizona Revised Statutes, Title 28 § 28-3391 through 3399 and Arizona Code of Judicial Administration (ACJA) § 7-201 and § 7-205 establish the authority for administration of the Defensive Driving Program by the Arizona Supreme Court. The Court administers the program through the Certification and Licensing Division of the Administrative Office of the Courts.
DEFINITION	ACJA § 7-205 defines instructors as persons who are certified pursuant to ACJA § 7-201(E) and conduct defensive driving courses for a certified school. In the case of alternative delivery methods, where an instructor is not present, the instructor serves as the certified school's point of contact to answer student questions by telephone or electronic means.
REQUIREMENT FOR EXAMINATION	Pursuant to ACJA § 7-205(E)(2)(e) all candidates for certification as a defensive driving instructor shall successfully pass a written examination.  ACJA § 7-201 and § 7-205 do not provide for any waiver of the examination. All potential candidates for certification must take and pass the examination in order to be eligible to apply for certification.
PURPOSE OF THIS HANDBOOK	The purpose of this handbook is to provide candidates with detailed information about the examination for certification as a defensive driving instructor. The handbook includes information about subject matter areas assessed by the examination, candidate responsibilities on the day of the examination, and notification of examination results.

## 2. APPLICATION POLICIES AND PROCEDURES

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ELIGIBILITY	All potential candidates for certification must successfully complete the written knowledge examination, submit a completed application for certification and possess the education or experience as outlined in ACJA § 7-201 and § 7-205.
CONFIRMATION OF ELIGIBILITY	<p>Potential applicants for defensive driving instructor certification must possess and demonstrate one or more of the qualifications to sit for the exam illustrated by ACJA § 7-205. Instructions for registering to participate in the examination and a digital copy of ACJA § 7-205 are available for candidate review on the Program website at <a href="http://www.supreme.state.az.us/drive/">www.supreme.state.az.us/drive/</a>.</p> <p>Available seats for the examination are filled on a first-come, first-serve basis. Examination staff reserves the right to limit the number of seats available at each administration. All candidates who fail to appear for a scheduled examination will be assessed a fee as prescribed by ACJA § 7-205.</p>
FEES	The fee for participating in the examination is \$50.00. If it becomes necessary for an applicant to retake the examination, a subsequent fee of \$50.00 is required if a candidate registers for the exam and fails to appear as scheduled, the candidate will be assessed a \$50.00 re-registration fee.
SPECIAL ACCOMMODATIONS	<p>Requests for special accommodations in accordance with the Americans with Disabilities Act of 1990 must be submitted to the Certification and Licensing Division with substantiating documentation.</p> <p>Requests must include a description of the nature of the disability and limitations related to the examination, the type of accommodation(s) requested and verification from a qualified professional. The qualified professional must have special expertise to evaluate the existence of the disability and proposed accommodations needed for the specific disability. Requests are reviewed and granted on an individual basis.</p>

### 3. OVERVIEW OF THE EXAMINATION

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TIME LIMITS	Candidates are allowed a total of three (3) hours to complete the examination. Candidates may wish to complete the multiple-choice questions in any order; however, are responsible for managing their own time.
FORMAT	<p>The examination consists of 100 multiple-choice questions worth one point each. There is one correct answer for each question. There is no penalty for guessing; therefore, candidates should answer all of the questions.</p> <p>The multiple-choice questions cover subject matter areas related to the provision of services as a defensive driving instructor (see Content Specifications, Section 4). The questions are designed to demonstrate candidates possess the basic knowledge, skills, and abilities to provide defensive driving instructor services.</p>
PASSING SCORE	<p>The passing score is the score that a candidate must achieve in order to pass the examination and qualify for certification as a certified defensive driving instructor in Arizona.</p> <p>The passing score for the examination is a scaled score of 70 out of the possible 100 points. Scoring is not based on a candidate achieving a passing score in each of the content specification areas, but rather is reflective of the overall score on the examination.</p>

#### 4. CONTENT SPECIFICATIONS

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##### CONTENT AREAS

The content for the examination was developed by a focus group of defensive driving instructors from representative practice settings in July 2007. They evaluated the importance of major subject matter areas of practice, determined their relative importance to practice, and assigned a weight (percentage) to each area. For example, if the weight is 15%, there would be 15 questions on a 100-item examination. There are three content areas outlined in the content specifications:

- I. Administrative responsibilities (15%)
- II. Ethics (30%)
- III. Classroom instruction (55%)

The above specified percentages of content area questions will be randomly ordered on the examination. For example, questions on classroom instruction will not be contained in one section or placed in consecutive order.

## 5. SAMPLE QUESTIONS

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These specific questions will not be on the examination but are representative of the types and format of the questions on the examination.

1. If a hearing is requested, within how many days must a hearing take place?
  - A. 30 days
  - B. 45 days
  - C. 60 days
  - D. 90 days
  
2. At the conclusion of class, a student offers concert tickets to the instructor free of charge. Can the instructor accept the tickets, and why?
  - A. No; the instructor cannot accept the tickets because there is the appearance of a conflict
  - B. No; the tickets were not offered to all instructors in the school
  - C. Yes; the instructor can accept the tickets if the value of the tickets is under \$100
  - D. Yes; the instructor can accept the tickets so long as the instructor offers to pay the cash value
  
3. What is the minimum distance that should be kept between a motorist's vehicle and a police vehicle which has flashing lights and sirens?
  - A. 200 feet
  - B. 250 feet
  - C. 300 feet
  - D. 350 feet

ANSWERS: C, A, C

## 6. EXAMINATION POLICIES AND PROCEDURES

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EXAMINATION SECURITY	<p>Candidates cannot receive any unauthorized assistance during the examination, including but not limited to any of the following:</p> <ul style="list-style-type: none"><li>• Impersonating another person in order to take the examination on that person's behalf;</li><li>• Communicating examination content to any person (during or after the examination);</li><li>• Removing examination materials from the examination room for the purpose of selling, distributing, buying, receiving, or having unauthorized possession of any portion of the examination;</li><li>• Having in one's possession books, equipment, notes, written or printed materials, data, other than the examination materials distributed;</li><li>• Reproducing examination materials or providing notes of examination content to any persons other than the examination staff; and,</li><li>• Obstructing or subverting the administration of the examination.</li></ul> <p>Any candidate who violates examination security policies is subject to denial of certification pursuant to ACJA §§ 7-201 and 7-205.</p>
ARRIVAL AT THE EXAMINATION	<p>On the day of the examination, the candidate must arrive at the designated examination site no later than the established registration time.</p>
TARDINESS	<p>An examination will not be disrupted to accommodate late arrivals. If a candidate reports late, the candidate will not be permitted to take the examination and will be required to pay prescribed fees for later participation.</p>
REGISTRATION	<p>The candidate <u>must</u> report to the registration area and present photographic identification (e.g., state-issued driver's license, military-issued identification or government-issued passport). The candidate will not be permitted to take the examination if they have not pre-registered and/or if they do not have the required photographic identification.</p> <p>At the time of the examination, all candidates will be required to sign an acknowledgement of the examination security policies and a non-disclosure agreement.</p>
NO SHOW POLICY	<p>If a candidate fails to show up for the examination, the candidate must re-register for the examination and pay the applicable fees.</p>
MATERIALS TO BRING	<p>Other than photographic identification, the candidate will be provided with all material necessary to participate in the examination process.</p>
PROHIBITED	<p>Candidates cannot bring communication devices, reference materials,</p>

MATERIALS	<p>photographic equipment or electronic devices into the examination room. The following items are examples of prohibited materials:</p> <ul style="list-style-type: none"> <li>• Cellular phones and pagers</li> <li>• Candidate handbooks, technical reference books and dictionaries</li> <li>• Cameras and videographic recorders</li> <li>• Radios and tape recorders</li> <li>• Laptop computers</li> <li>• Programmable electronic organizers, personal digital assistants (PDAs)</li> <li>• Drinks and food</li> </ul>
PERSONAL BELONGINGS	<p>Candidates may keep keys, wallets and purses on the floor near their seat during the examination. Larger items (e.g., backpacks, briefcases, duffel bags, handbags, tote bags) and outerwear (e. g. coats, hats) CANNOT be brought into the examination.</p> <p>Examination staff will <u>not</u> be responsible for monitoring candidates' personal items during the examination. If a candidate reports prohibited materials or belongings the candidate will be asked to make alternative arrangements before you start the examination.</p> <p>If securing belongings results in the candidate being late for the examination, the candidate will not be permitted to take the examination and will need to reschedule and submit any applicable fees.</p>
CHECK-OUT PROCEDURE	<p>All examination materials including test booklets, answer sheets, pencils and any notes taken during the examination must be returned to the examination staff. Failure to do so will void the candidate's examination.</p>
DISRUPTIVE BEHAVIOR	<p>Candidates who engage in behavior that is disruptive to other candidates will be disqualified from the examination process.</p> <p>Examples of disruptive behavior during the examination include:</p> <ul style="list-style-type: none"> <li>• Eating and drinking during the examination;</li> <li>• Allowing the alarm features of programmable wristwatches or other timepieces to emit sound; or</li> <li>• Talking, whispering, or otherwise attempting to communicate with other candidates for any reason.</li> </ul>
LEAVING THE ROOM DURING THE EXAMINATION	<p>Candidates will not be permitted to leave the examination room for any purpose unless accompanied by a member of the examination staff. Candidates will NOT receive extra time to complete the examination. Failure to follow this rule will result in the candidate's examination being voided.</p>

## 7. EXAMINATION RESULTS

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**NOTIFICATION OF RESULTS** Examination results will be sent to each candidate by mail at the address on file with the Division within thirty (30) days of completion of the examination. Do NOT call the Certification and Licensing Division or make inquiries by email or in person requesting examination results. Examination results will NOT be released to third parties.

**RE-EXAMINATION** A candidate who fails to pass the written examination may retake the examination two times under the following conditions:

- The candidate is not disqualified from retaking the examination for fraud, dishonesty, or corruption while taking the examination,
- The candidate sends a written request to retake the examination within 30 days of the date of receipt of the examination results,
- The candidate takes the reexamination within 90 days of the date of the notice of the examination results.

Pursuant to ACJA § 7-201, a candidate who has taken and failed the examination three times shall not be allowed to take a further examination unless the Defensive Driving Board grants special permission for the candidate to take another examination. The candidate must submit a written request stating the additional study and preparation the candidate has completed to qualify for an additional examination.

## 8. REFERENCES

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The following list of references provides a complete and comprehensive list of the references related to the examination questions. There are no references listed that are not reflected in the questions which may be present on the examination. All cited references refer to the version of the reference as of January 2007. Any amendments adopted to the references after January 2007 will not be included in the examination. Every reference you will need to be familiar with for the purpose of the examination is contained in Section 9 of this study guide.

1. ACJA § 7-201 (E)(1) and (E)(2)
2. ACJA § 7-201 (F)(2), (F)(5) and (F)(6)
3. ACJA § 7-201 (G)(3) and (G)(4)
4. ACJA § 7-201 (H)(15) and (H)(23)
5. ACJA § 7-205 (E), (F), (G), (J) and (M)
6. Defensive Driving Program Continuing Education Policy
7. ARS § 28-695
8. ARS § 28-701
9. ARS § 28-724
10. ARS § 28-726 (A)(2)
11. ARS § 28-775 (A) through (E)
12. ARS § 28-776 (A)
13. ARS § 28-792
14. ARS § 28-793
15. ARS § 28-794
16. ARS § 28-797 (E)
17. ARS § 28-854
18. ARS § 29-856
19. ARS § 28-857
20. ARS § 28-857.01
21. ARS § 28-909 (A) and (B)
22. ARS § 28-1321
23. ARS § 28-1381 (A)
24. ARS § 28-1382 (A) and (B)
25. ARS § 28-3392
26. ARS § 28-3395(B)
27. Arizona Driver License Manual (and Customer Service Guide)  
<http://www.azdot.gov/mvd/MenuFormsandPubs.asp>

## 9. APPLICABLE ACJA SECTIONS, RULES, ORDERS AND STATUTES

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ARIZONA CODE OF JUDICIAL ADMINISTRATION  
Part 7: Administrative Office of the Courts  
Chapter 2: Certification and Licensing Programs  
Section 7-201: General Requirements

### E. Initial Certification.

#### 1. Application for Initial Certification.

- a. Forms. An applicant shall apply for certification on approved forms and file them with division staff.
- (1) Division staff shall conduct a preliminary review of the submitted application and determine if the application is deficient, the required supporting documents are deficient, fees are deficient, or a combination of these requirements are deficient.
  - (2) Division staff shall advise the applicant in writing of the deficiencies.
  - (3) The applicant shall provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees.
  - (4) Division staff may require the applicant to provide additional information or an explanation reasonably necessary to determine if the applicant meets the required qualifications specified in this section or the applicable sections of the ACJA.
  - (5) Upon receipt of a complete application, division staff may conduct a personal credit review and review records regarding an application for initial certification, consistent with the policies and procedures developed by the director pursuant to subsection (D)(2)(a)(5).
  - (6) The applicant shall notify division staff of any changes relevant to the application for certification within five days of the change.
  - (7) Upon a final review of the application, division staff shall prepare and forward to the board a written recommendation regarding the applicant's qualifications and eligibility for certification.
  - (8) Division staff shall advise the board in any written recommendation regarding certification of an applicant, of any complaints alleging acts of misconduct or violations of statute, court rules or order, this section, or the applicable sections of the ACJA, if the allegations occurred during the time the applicant held an active certificate and were received after the applicant's certificate expired.
  - (9) The division staff's written recommendation to the board shall note any deficiencies in the application. A deficient application for initial certification is lacking one or more of the following requirements:
    - (a) An explanation or correction of any deficiencies, pursuant to subsection (E)(1)(a)(4);
    - (b) Payment of all appropriate fees, pursuant to subsection (E)(1)(b);
    - (c) A photograph, pursuant to subsection (E)(1)(c); or
    - (d) A readable fingerprint card or affidavit in lieu of a fingerprint card, pursuant to subsection (E)(1)(d).
  - (10) The board, upon review of the division staff recommendation, may request an informal interview with an applicant for certification, pursuant to subsection (D)(5)(c)(2)(a), to establish if:
    - (a) Additional information is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA;

- (b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA; or
  - (c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules or applicable sections of the ACJA, received after the applicant's original certificate expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).
- b. Fees. The applicant shall submit, with the application, any applicable certification, examination and training fees specified in the applicable sections of the ACJA. Fees are not refundable or waivable. An applicant shall make the payment for any fee payable to the Arizona Supreme Court. An application submitted without fees is deficient.
- c. Photograph. The applicant for certification shall provide with the application, one color passport-size photograph, two inches by two inches of the applicant's head, neck and shoulders only. The applicant shall ensure the photograph was taken within the last two years and clearly identifies the applicant. An application submitted without a photograph is deficient.
- d. Fingerprinting. If required pursuant to law, the applicant shall submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check. An application submitted without a fingerprint card, if required by law, is deficient.
  - (1) The applicant shall provide a readable and complete fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.
  - (2) If after two attempts, the FBI determines the fingerprints provided are not readable, the applicant shall submit a written statement, under oath, the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.
  - (3) Division staff shall submit completed applicant fingerprint cards and the applicable fees to the Arizona Department of Public Safety, pursuant to A.R.S. § 41-1750, Public Law 92-544 and subsection (D)(4)(b)(1).
- e. Initial Training. If required by the applicable section of the ACJA, an applicant shall attend and complete the initial training session. Division staff shall provide the applicant with a document signifying the applicant completed the training. If required by the applicable section of the ACJA, an applicant shall attend the entire training session for eligibility to sit for a certification examination.
- f. Examination. If required by the applicable section of the ACJA, an applicant shall take and pass the examination for initial certification. Specific examination requirements are located in subsection (E) of the applicable ACJA section. National examinations shall be at the time and place scheduled by the administering entity.
  - (1) Administration of the Initial Examination. In administering the examination, division staff shall:
    - (a) Offer the examination on dates in conjunction with the initial training for certification, if initial training is required by the applicable section of the ACJA;
    - (b) Set a date and place for the examination;
    - (c) Promptly notify qualified applicants in writing they are permitted to sit for the examination, specifying the time and place of such examination;

- (d) Publish in advance of the examination, content specifications for the examination and a study guide, as approved by the applicable board and make the specifications and study guide available to applicants;
  - (e) Announce, in advance of the examination, the passing score for the examination, as established by the applicable board. The passing score shall be consistent with the job analysis conducted at the direction of the board. An applicant shall pass with a final score on the examination meeting the guidelines established by the board;
  - (f) Use multiple versions of the examination and ensure no copies of the examination are released to applicants or the public;
  - (g) Inform each applicant in writing as to whether the applicant passed or failed the examination and if the grade is failing, a reexamination is required to meet all qualifications for certification; and
  - (h) Make and keep an accurate record of each examination used at each administration of the examination and the score of each person taking the examination.
- (2) Administration of Reexaminations. Division staff shall allow an applicant who fails the first examination to:
- (a) Review the answer sheet and grade of the applicant, upon written request. The applicant shall conduct the review during business hours in the presence of division staff and the applicant shall not copy materials provided for review.
  - (b) Retake the examination two times under the following conditions:
    - (i) The applicant is not otherwise disqualified from retaking the examination;
    - (ii) The applicant sent a written request to retake the examination to division staff within 30 days of the date of the notice of the examination results;
    - (iii) The applicant files a new application and pays the applicable examination fee each time;
    - (iv) The applicant takes the second or third reexamination within 90 days of the date of the notice of the examination results indicating the applicant failed either the first or second examination; and
    - (v) An applicant who does not submit a written request to retake the examination within the 30 day time frame specified in subsection (E)(1)(f)(2)(b)(ii), may request an extension of time from the board upon a showing of good cause.
  - (c) An applicant taking and failing the examination three times, unless otherwise noted in the applicable ACJA section, shall not be permitted to take any subsequent examination unless granted permission by the board.
  - (d) Subsequent Examinations.
    - (i) Any applicant who was unsuccessful on the third attempt to pass the examination may request the board for permission to sit for a fourth examination. The applicant shall submit a written request to the board to sit for a fourth examination under the following conditions:
      - a) The applicant has filed a new application with division staff and paid the appropriate examination fee;
      - b) The applicant is not otherwise disqualified from taking the subsequent examination;
      - c) The applicant has provided documentation attached to the new application stating the additional study and preparation the applicant has made to qualify for a fourth examination; and
      - d) The applicant has provided documentation attached to the new application demonstrating the circumstances and reasons for believing the applicant now possesses the knowledge of the minimum competencies of the profession or occupation to pass the fourth examination.
    - (ii) If the board finds the applicant demonstrates additional study and preparation and the circumstances and reasons to believe the applicant now possesses the knowledge of the minimum competencies of the profession or occupation, the

board may, pursuant to subsection (D)(5)(c)(1)(c), approve the applicant's request to sit for the fourth examination. Division staff shall inform the applicant of the board's decision to allow the applicant to sit for the fourth examination within ten days of the board's decision. The notice shall state the earliest date for which the applicant may sit for the fourth examination.

- (iii) If the board finds the applicant does not demonstrate additional study and preparation and the circumstances and reasons to believe the applicant now possesses the knowledge of the minimum competencies of the profession or occupation, the board shall, pursuant to subsection (D)(5)(c)(1)(c), deny the applicant's request to sit for the fourth examination. Division staff shall inform the applicant of the board's decision to deny the applicant's request to sit for the fourth examination within ten days of the board's decision. The notice shall state the reasons for the board's denial. The decision by the board to deny the request is final and there is no right to a hearing.
  - (iv) If the applicant's request to sit for the fourth examination is denied, the applicant may file a new application twelve months after the board's decision to deny.
  - (v) An applicant who was unsuccessful on the fourth or any subsequent examinations may request permission from the board to sit for a subsequent examination pursuant to subsection (E)(1)(f)(2)(d).
- g. An applicant is disqualified from taking any future examination if the board determines the applicant engaged in fraud, dishonesty or corruption while taking the examination or any subsequent examination.
  - h. Updating of Examinations. Division staff shall update examinations as needed and may ask representatives from the court community, regulated profession or occupation, the public, or any other knowledgeable resource to assist in the development and validation of examinations for the applicable sections of the ACJA.

## 2. Decision Regarding Certification.

- a. Notification of Certification. Upon the board's decision to issue a certificate, division staff shall promptly notify qualified applicants of certification in writing, pursuant to this section and the applicable section of the ACJA . Each qualified applicant shall receive a document, badge or card evidencing certification, stating the applicant's name, date of certification, certificate number and expiration date of the certification. Each certificate shall expire as provided in the applicable section of the ACJA. In addition, unless previously provided, each applicant granted certification shall receive a copy of this section and the applicable section of the ACJA, detailing the responsibilities of the certificate holder.
- b. Certificate Status. All certificates are valid until expired, surrendered, suspended or revoked.
- c. Denial of Initial Certification.
  - (1) The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the ACJA; or has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.
  - (2) The board may deny certification of any applicant if one or more of the following is found:
    - (a) Material misrepresentation, omission, fraud, dishonesty, or corruption on the part of the applicant in the examination for certification;
    - (b) The applicant or an officer, director, partner, member, trustee, or manager of the applicant:

- (i) Has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form;
  - (ii) Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;
  - (iii) Has conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is incompetent or a source of injury and loss to the public;
  - (iv) Has a conviction by final judgment of a felony, regardless of whether civil rights have been restored;
  - (v) Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored;
  - (vi) Has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate;
  - (vii) Has a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to the certification sought;
  - (viii) Has a termination, suspension, probation or any other disciplinary action regarding past employment if the underlying conduct is relevant to the certification sought;
  - (ix) Has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft or conversion;
  - (x) Is currently on probation or parole;
  - (xi) Has violated any decision, order, or rule issued by a professional regulatory entity;
  - (xii) Has violated any order of a court, judicial officer, administrative tribunal, or the board;
  - (xiii) Has made a false or misleading statement or verification in support of an application for a certificate filed by another person;
  - (xiv) Has made a false or misleading oral or written statement to division staff or the board;
  - (xv) Failed to disclose information on the certification application subsequently revealed through the background check;
  - (xvi) Failed to respond or furnish information to the division staff or the board when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to certification or investigative inquiries; or
  - (xvii) If the applicant is a business, a record of conduct constituting dishonesty or fraud on the part of an employee, board member, or the business.
- (3) The board may consider any or all of the following criteria when reviewing the application for certification of an applicant with a misdemeanor or felony conviction, pursuant to subsection (E)(2)(c)(2)(b)(iv) and (v):
- (a) The applicant's age at the time of the conviction;
  - (b) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;
  - (c) The degree of violence, injury or property damage and the cumulative effect of the conduct;
  - (d) The applicant's level of disregard of ethical or professional obligations;
  - (e) The reliability of the information regarding the conduct;

- (f) If the offenses involved fraud, deceit or dishonesty on the part of the applicant resulting in harm to others;
  - (g) The recency of the conviction;
  - (h) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;
  - (i) The relationship of the conviction to the purpose of certification;
  - (j) The relationship of the conviction to the applicant's field of certification;
  - (k) The applicant's candor during the application process;
  - (l) The significance of any omissions or misrepresentation during the application process; and
  - (m) The applicant's overall qualifications for certification separate from the conviction.
- (4) Upon the board's decision to deny certification, division staff shall, notify each applicant denied certification of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection (E)(2)(c)(5). The division staff shall provide the notice in writing and shall send the notice within ten days after the board's decision.
- (5) An applicant is entitled to a hearing on the decision to deny certification, if the disciplinary clerk receives a written request for a hearing within fifteen days after division staff mails the notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for the hearing and appeal.
- (6) An applicant denied certification by a final decision of the board, whether or not a hearing was requested and held, may reapply for certification, pursuant to subsection (E), under the following circumstances:
- (a) It has been twelve months since the final decision by the board;
  - (b) If the initial reasons for denial were failure to meet the education and experience requirements, the applicant shall attach to the new application written documentation demonstrating how the circumstances have changed to meet these requirements:
    - (i) Division staff shall review the new application and supporting documentation and consider if the applicant now meets the education and experience requirements;
    - (ii) Division staff shall notify the applicant in writing within ten days if the applicant has now provided sufficient documentation to demonstrate the applicant meets the education and experience requirements pursuant to this section and the applicable ACJA sections or has not provided sufficient documentation to demonstrate the applicant now meets the education and experience requirements;
    - (iii) If the applicant has met the education and experience requirements necessary for certification, division staff shall forward the application to the board pursuant to subsection (E)(1)(a)(7);
    - (iv) If the applicant has not met the education and experience requirements necessary for certification, division staff shall forward the application to the board noting the deficiencies and a recommendation for denial pursuant to subsection (E)(1)(a)(9) and provide written notice to the applicant of the deficiencies and recommendation; and
    - (v) The applicant may request an informal interview with the board to review the recommendation of division staff for denial of certification because of the deficiencies, if the request is submitted to the board in writing within ten days of the date of the notification.
  - (c) If the board denied certification for reasons other than failure to meet the education or experience requirements, the applicant shall present new documentation to address the original issues resulting in denial including all of the following:
    - (i) Demonstration of acceptance of responsibility for the conduct leading to the denial by the board; and
    - (ii) Establishment of good moral character.

- (d) In determining whether the applicant has established good moral character, the board shall conduct an informal interview with the applicant, no later than 60 days after the applicant has submitted a completed application.
- (e) Upon a showing of good cause, the applicant may apply for certification sooner than twelve months if denied solely for lack of education or experience necessary for certification, if those circumstances have changed.
- (f) The applicant may not reapply for certification if there are statutory provisions prohibiting certification as specified in the applicable ACJA section.

**F. Role and Responsibilities of Certificate Holders.**

- 2. Identification. Upon request by any judicial officer, court employee or member of the public, a certificate holder shall provide proof of certification.
  
- 5. Candor.
  - a. A certificate holder shall not knowingly:
    - (1) Make a false statement of material fact or law to a tribunal; or
    - (2) Fail to disclose a material fact to a tribunal, except as required by applicable law.
  - b. A certificate holder shall notify division staff within ten days of a misdemeanor or felony conviction.
  
- 6. Change of Name or Address. A certificate holder shall notify division staff of any change in name or business, directory, mailing or home address, telephone number or email address within 30 days of any change, pursuant to the applicable sections of the ACJA. The certificate holder shall make this notice in writing by U.S. Post, facsimile or email.

**G. Renewal of Certification.**

- 3. Additional Information. Before recommending renewal of certification, division staff may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this section, which may include:
  - a. Background information, pursuant to subsection (E)(1)(a) and the applicable section of the ACJA;
  - b. A personal credit review and review of records pertaining to the applicant by division staff, pursuant to subsection (E)(1)(a)(5); and
  - c. Fingerprinting pursuant to subsection (E)(1)(d);
  
- 4. Decision Regarding Renewal.
  - a. The board may renew a certification if the certificate holder:
    - (1) Meets all requirements for renewal as specified in this section and the applicable section of the ACJA;
    - (2) Submits a completed renewal application; and
    - (3) Pays the renewal fees on or before the expiration date as specified by the applicable section of the ACJA.

- b. Division staff shall promptly notify the applicant in writing of the board's decision to renew the applicant's certificate in accordance with this section and the applicable section of the ACJA. Each renewed applicant shall receive a document, badge or card evidencing renewal of certification, stating the applicant's name, date of certification, certification number and expiration date.
- c. The board may deny renewal of certification for any of the reasons stated in subsection (E)(2)(c). Division staff shall promptly notify the applicant, in writing, within ten days of the board's decision to deny renewal of certification. The notice shall include the board's reasons for the denial of renewal of certification and the right of the applicant to a hearing, pursuant to subsection (G)(4)(d).
- d. An applicant is entitled to a hearing, on the decision to deny renewal of certification if the disciplinary clerk receives a written request for a hearing within fifteen days after the date of the notice of denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for hearing and appeal.

**H. Complaints, Investigations, Disciplinary Actions, Proceedings and Certification and Disciplinary Hearings.**

15. Time Line for Hearing. The disciplinary clerk or hearing officer shall:

- a. Ensure the hearing is held within 60 days of receipt of the request for hearing. The hearing officer may continue the hearing date upon request or stipulation of the parties, or upon the hearing officer's own motion, for good cause shown. The hearing officer shall grant continuances no more than 30 days at a time and may not extend the hearing on the merits beyond 120 days from the filing of the formal statement of charges.
- b. If the request to continue the hearing is filed by division staff, the hearing officer shall ensure the hearing is held as soon as practical at the discretion of the hearing officer but no less than fifteen days after notice, as required by subsection (H)(16).

23. Rehearing. A party to the hearing may request a rehearing of the matters involved in the hearing. The requesting party shall file the written request with the hearing officer and the disciplinary clerk within fifteen days after the disciplinary clerk has distributed the hearing officer's recommendation report to the parties pursuant to subsection (H)(22)(c). The requesting party shall base the request for rehearing on one or more of the grounds listed in Rule 59, Rules of Civil Procedure. The hearing officer shall allow any party served with a request for rehearing to file a response within ten days of service. The hearing officer may grant a rehearing of the matters involved in the hearing and shall make the decision to grant or deny the request within ten days of the date the response for rehearing is filed.

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 7: Administrative Office of the Courts  
 Chapter 2: Certification and Licensing Programs  
 § 7-205: Defensive Driving

**E. Initial Certification.** In addition to the requirements of ACJA § 7-201(E), the following requirements apply:

1. Eligibility for Certification as a School. An applicant for a business entity certification, whether a corporation, limited liability company or partnership shall:
  - a. Provide an indemnification statement and conflict of interest statement signed by an owner or officer with the appropriate authority on behalf of the applicant.
  - b. Provide an affidavit of eligibility, evaluation form and completion certificate for review by division staff and approval by the Board.
  - c. Fully disclose all relationships to any parent company or organization and currently paid or unpaid officers, directors, owners and boards of directors.
  - d. Maintain a business office and telephone number in the state of Arizona through which the applicant's Arizona business is transacted.
  - e. Obtain any necessary federal and state tax identification numbers as required by law.
  - f. Disclose any third party contracts regarding any operational or financial proceedings such as data entry or on-site testing. Incidental operations such as telephone, copying, or Internet services are not subject to this requirement.
  - g. Purchase and maintain general liability insurance that meets the following conditions:
    - (1) Incidental malpractice with a minimum combined single limit of \$1,000,000 per occurrence;
    - (2) The policy shall name the state of Arizona, the supreme court and, if applicable, each court with which the applicant holds a primary provider contract, as additional parties;
    - (3) The insurer shall hold a valid license to do business in the state of Arizona with minimum ratings as specified by the Arizona Department of Administration; and
    - (4) If the applicant is part of a self-insured government entity, the applicant shall submit documentation from the government entity stating the applicant's coverage.
  - h. Designate a principal with whom division staff may communicate on any procedural or operational concern or problem and who will have certain responsibilities pursuant to subsection (F).
  - i. Provide articles of incorporation and letters of good standing from the Arizona Corporation Commission or the Secretary of State, or if the applicant uses ADM, from comparable entities of the state where the business is located.
  - j. File at least one defensive driving course curriculum in writing and by electronic means if the applicant chooses. Classroom defensive driving courses are limited to a maximum of fifteen percent audiovisual material. All applicants for certification shall include, at a minimum, the following Arizona specific educational and behavioral modifications:
    - (1) Collision prevention, including:
      - (a) Vehicle maintenance; and
      - (b) Recognition of physical and mental limitations and disabilities, including:
        - (i) Fatigue;
        - (ii) Stress;
        - (iii) Attitude and road rage;
        - (iv) Inattention;

- (v) Distractions; and
  - (vi) Awareness of sensory and other physical limitations or disabilities.
  - (2) Practical defensive driving techniques:
    - (a) Reaction time and following distances;
    - (b) The importance of driving safely in adverse conditions; and
    - (c) Proper vision techniques, including:
      - (i) Scanning;
      - (ii) High aim; and
      - (iii) Blind spots.
  - (3) Use and importance of safety systems including:
    - (a) Seat belt law and usage;
    - (b) Crash forces and fallacies of not wearing seat belts;
    - (c) Child restraint law and proper usage;
    - (d) Air bags; and
    - (e) Anti-lock braking systems.
  - (4) Alcohol and drug use including:
    - (a) DUI laws and penalties;
    - (b) Implied consent law;
    - (c) Degree of impairment;
    - (d) Zero tolerance; and
    - (e) Underage drinking and driving.
  - (5) Review of the major traffic laws of Arizona and local ordinances, including:
    - (a) Speeding;
    - (b) Obeying traffic control devices;
    - (c) Passing;
    - (d) Intersections, lane changes and turning;
    - (e) Stopping and yielding;
    - (f) School zones and crossings;
    - (g) School buses and emergency vehicles;
    - (h) Pedestrians and crosswalks, marked or unmarked;
    - (i) Major criminal traffic violations; and
    - (j) Local ordinances.
- k. File an operational and financial procedures manual detailing the applicant's processes for compliance with all Arizona statutes, ACJA § 7-201, this section and court or local rules.
- l. Have at least one individual become certified as an instructor of the applicant school's curriculum.
- m. Develop and maintain an instructor training seminar.
- n. Require any potential applicant for certification as an instructor to attend at least two defensive driving courses and teach one course, under the supervision of a certified instructor pursuant to subsection (E)(2)(i), prior to the submission of the individual's application and maintain the original applicant's record of attendance.
- o. Present a demonstration of the defensive driving course curriculum by the applicant's owner, principal or instructor to division staff. The demonstration shall:
  - (1) Include all elements and intended delivery formats as proposed in the applicant's curriculum program, including an ADM defensive driving course;
  - (2) Make evident the owner, principal or chief instructor understands the curriculum and the curriculum is accurate and created for the state of Arizona's traffic laws; and

- (3) If the curriculum contains materials that are not original to the applicant or in the public domain, the applicant shall provide written authorization for the use of the materials.
      - p. Correct any deficiencies noted by the division staff in the curriculum or authorization of use of materials and present a second demonstration if requested by division staff in order to qualify for certification.
      - q. Designate at least one individual to receive training from division staff on the operational requirements of the defensive driving database.
      - r. Provide a copy of the refund policy to division staff for approval to ensure compliance with refund policies of this section.
2. Eligibility for Certification as an Instructor. In addition to the requirements of ACJA § 7-201(E), for qualification as an instructor, an individual shall meet the following conditions:
  - a. At least 21 years old.
  - b. Have a high school diploma or general equivalency diploma.
  - c. A legal resident or citizen of the United States.
  - d. Hold a valid Arizona driver license if teaching within the state; or a valid driver license from the state where the ADM school is located.
  - e. From and after November 1, 2007, pass a certification examination testing the applicant's knowledge, skills and abilities as an instructor.
  - f. Attach a certified current 60 month motor vehicle record to the application.
  - g. Provide a motor vehicle record from any another jurisdiction for the most recent 60 months, if the applicant does not have a 60 month history with the Arizona Motor Vehicle Division.
  - h. Attend and successfully complete the instructor training seminar provided by the employing or contracting school and provide proof of completion with the application.
  - i. Attend and observe for the entire course length at least two defensive driving courses and, if a classroom instructor applicant, instruct at least one defensive driving course under the supervision of an instructor who holds a certificate and attach proof of attendance to the application.
  - j. If the applicant is currently serving as an active law enforcement officer with authority to issue citations, the applicant may submit a completed application only if the applicant has obtained a waiver from the presiding judge of the superior court in the county where the school is located, allowing the officer to serve as an instructor.
3. Decision Regarding Certification for Schools or Instructors. In addition to the requirements of § 7-201(E) the following requirements apply:
  - a. The Board shall deny certification of an applicant for certification as an instructor if the applicant has received:
    - (1) A suspension or revocation of the applicant's driver license in any jurisdiction, within the

- 60 months preceding the date the applicant files for certification;
- (2) A criminal conviction involving vehicle operation in any jurisdiction, within the 60 months preceding the date the applicant files for certification; or
- (3) More than one civil traffic moving violation of the applicant's driver license in any jurisdiction, within the 24 months preceding the date the applicant files for certification.

b. The Board may refuse to certify any applicant for certification as a school if:

- (1) The applicant conducts business under a trade name which implies a course content other than the teaching of defensive driving course;
- (2) The applicant offers a premium, prize, food, lifestyle, entertainment or other inducement for selecting the school, other than the legal diversion or mitigation of a traffic citation; or
- (3) The applicant fails to resolve a conflict of interest, as described in this subsection:
  - (a) Certification as, or operation of, a school by a public agency or an employee of a public agency, which has within the regular scope of duties the power to cite individuals for minor moving violations, to influence the resolution of citations for minor traffic violations, or otherwise control, advise, solicit, or order the attendance, or potential attendance of individuals in a school. This limitation on certification or operation of a school by public agencies or employees of public agencies does not preclude law enforcement officers from acting solely as employed or contracted instructors for schools provided the provisions of subsection (E)(2)(j) are met;
  - (b) Certification as, or operation of, a school by a public agency or an employee of a public agency which or who is in a position to derive a profit or fund the agency's or person's own activities from the use of its facilities or employees in the presentation of a defensive driving course;
  - (c) Employment by a school, either for pay or as a volunteer, of any employee of a public agency who has within the regular scope of the employee's duties the power or ability to control, advise, solicit, or order the attendance of individuals in a school, or who is in a position to derive a profit or fund the public agency's activities from the use of the public agency's facilities and employees to further the presentation of a school's defensive driving course;
  - (d) Compensation of, or offering incentives to, a court employee, either directly or indirectly, to enroll students in a school or for selection of a specific school as a primary provider;
  - (e) Employment as a volunteer or paid employee, or compensation of any court officer or employee, to operate, instruct or provide any service to a school; or
  - (f) Any other apparent or actual conflict of interest.

c. Denial of Certification. These requirements are contained in ACJA § 7-201(E).

d. Eligibility for Application after Denial. These requirements are contained in ACJA § 7-201(E).

**F. Role and Responsibilities of Certificate Holders.** In addition to the requirements of ACJA § 7-201(F), each school shall:

- 1. Adhere to the standards in the code of conduct in subsection (J).
- 2. Assume responsibility for all operational aspects of a school including any elements or functions performed by third party contractors. Any actions by non-certified third-party contractors constituting allegations of acts of misconduct or violations of ACJA § 7-201, this section, or any other court policy or rule are the responsibility of the school. The certified school is subject to

disciplinary action as provided in ACJA § 7-201(H) and this section for any acts of misconduct or violations by third party contractors.

3. Maintain a business office and local or toll-free telephone number in the state of Arizona through which the school's Arizona business is transacted. The Arizona office shall maintain and keep copies of all operational records including all Arizona student records required by this section.
4. Notify division staff of any change in the telephone number, business address, mailing address or home address of principals, officers and owners of the school or any other required database information within three business days of the change.
5. Designate a principal within the state of Arizona who holds contracting authority for the school, with whom division staff can immediately make contact concerning any process or procedure of the school or court operation. The principal:
  - a. Shall prepare and submit, with the initial school application, a list of all instructors or applicants for certification and staff members requiring access and training for the defensive driving database.
  - b. Shall actively and directly supervise all certified instructors, instructors in training and staff who have access to the defensive driving database to ensure compliance to all Arizona statutes, ACJA § 7-201 and this section.
  - c. Shall file with division staff, by December 1st of each year, a list of all certified instructors and staff of the school who have access to the defensive driving database, as of October 31st of that year.
  - d. Shall notify division staff within seven days if a certified instructor or staff member with access to the defensive driving database leaves the employment of the school.
  - e. May represent the school entity, at the discretion of the school, in any proceeding under Arizona statutes, ACJA § 7-201 and this section.
6. File any report with the state of Arizona as required by law.
7. Allow only certified instructors to present defensive driving courses, except an instructor-in-training may present a course or portions of a course under the direct and present supervision of an instructor with certification.
8. Use only the curriculum and materials approved by the Board in presenting defensive driving courses. The curriculum includes any detailed written outline of the defensive driving course or lesson plan, films or audiovisual materials and any written materials the school intends to use to supplement the presentation.
9. Develop and prepare to offer a version of the curriculum, as approved by the Board, in response to a request for accommodations under the Americans with Disability Act.
10. Establish and follow detailed written operational and financial procedures. If the school is a multi-purpose agency, it shall establish separate records and procedures for the reporting of revenue receipts, disbursement of funds and any other financial transactions for the school portion of the agency.

11. Not co-mingle any defensive driving diversion or state fees with any school or business operating fees or accounts.
12. Ensure procedures and records conform to generally accepted accounting principles and the minimum accounting standards adopted by the supreme court.
13. Collect the court diversion fee, defensive driving and judicial collection enhancement fund fee, plus any fee charged by the school for the defensive driving course, before an individual begins any type of defensive driving course.
14. Issue a completion certificate only to a student who has provided proper identification, signed the eligibility affidavit and refund policy, provided a copy of the citation and court order, if required, paid all fees and completed the defensive driving course.
15. Collect and remit all court diversion fees to each court as required by A.R.S. § 28-3396(C) and this section, with all required reports and data concerning the student and traffic ticket for which the fees are collected. The school shall hold the diversion fees in trust for the courts until disbursed.
16. Collect and remit all state fees and the required reports concerning the student and traffic ticket for which the fees were collected, or a “negative state fee report” if no state fees were collected. The school shall hold the state fees in trust for the supreme court until disbursed.
17. Submit the school's schedule of future defensive driving courses within two weeks of the date of the scheduled defensive driving course. The schedule shall include the date, start and end time, instructor name and location of each defensive driving course. The school shall submit the schedule as often as necessary to ensure division staff has accurate and current information.
18. Provide a list of sites where the defensive driving course is made available and disclose if the defensive driving course is provided in an ADM format. The school offering ADM shall provide division staff with a schedule of instructors available to answer any student questions, within the allowable time frames of the defensive driving course presentation. The school shall also provide the schedule of instructors in a specified electronic or other format and update it as often as necessary to ensure accuracy.
19. Comply with the following requirements:
  - a. Access the defensive driving database correctly and accurately and:
    - (1) Maintain the proper hardware and software and the ability to connect and interface with the defensive driving database and update these as often as required by division staff to maintain efficient system function;
    - (2) Assume responsibility for all costs of equipment, telephone lines, contractor fees incurred to meet these requirements and maintain the system as is necessary to comply with all statutory and ACJA requirements; and
    - (3) Ensure the required data for state fees and defensive driving course completion is entered and all errors corrected, or an error correction requested, within the time frames specified in this section.
  - b. Conduct defensive driving courses and:
    - (1) Maintain class schedule directories as required pursuant to subsection (F)(17) on the same physical computer system that accesses the defensive driving database;

- (2) Comply with all the requirements of this section in the same manner for students attending an out-of-state defensive driving class; except the completion date for an out-of-state student is the date the completion certificate, required fees and documentation are received by the coordinating Arizona school;
- (3) Ensure each student receives a minimum of four hours (240 minutes) and a maximum of four and one half hours (270 minutes) of instructional time. Pursuant to A.R.S. § 28-3395: “. . . a defensive driving school class shall not exceed a total of four and one-half hours, including any testing, reviewing and grading related to the defensive driving school class”;
- (4) Present only the material contained in the school’s curriculum pre-approved by the Board;
- (5) Not use a defensive driving course as a forum for any purpose except the presentation of the approved course curriculum;
- (6) Schedule adequate breaks in compliance with the Americans with Disabilities Act;
- (7) Require the instructor remain in the classroom with the students during the full 240 minutes of defensive driving course instruction time; or when an AMD format is used, to be directly available at all times to answer student questions;
- (8) Limit attendance to only the number commensurate with student comfort in the classroom. This shall include adequate space and seating capacity for all students registered for the defensive driving course, heating and cooling and immediate access to drinking water and restroom facilities. In no case shall the number of students exceed 60 attendees per class.
- (9) Ensure all classrooms meet all federal, state, county and local health, safety and building requirements, including Americans with Disabilities Act; and are consistent with a learning and instructional environment in keeping with judicial decorum;
- (10) Provide classrooms with adequate audiovisual equipment allowing all students to see and hear the presentation clearly, if audiovisual presentations are a part of the approved curriculum;
- (11) Expel students from the class who do not comply with the classroom standards and the reasonable instructions of the school’s staff. When a school expels a student from the classroom, the school shall make and retain a report explaining the circumstances and reasons for expulsion and copy the court of jurisdiction;
- (12) Require students to complete an evaluation form in either a classroom setting or ADM format and forward the completed evaluations to division staff within five days of the request. The Board shall specify the format and content of the evaluation form, pursuant to subsection (D)(3)(b);
- (13) Submit, for approval by the Board, changes to any element of the school’s currently approved defensive driving course presentation. This applies to classroom and ADM defensive driving courses and the submitted information shall include any materials or additions the certificate holder is proposing to the format or delivery of the course. The school shall obtain board approval for the changes prior to presentation to students; and
- (14) Not combine a defensive driving course for diversion of individuals who are cited for a civil traffic moving violation with a remedial course for individuals who are attending to avoid or mitigate a driver license suspension. Division staff may waive this prohibition in limited market areas where it would have the effect of prohibiting use of a defensive driving course for diversion purposes as provided by A.R.S. §§ 28-3391 to -3399. A school may apply in writing to division staff for written authorization to provide combined courses in specific locations. Division staff may approve the request based on the following criteria:
  - (a) There is a limited number of students in the area (class sizes are frequently less than twenty students); and
  - (b) No other school is conducting non-combined defensive driving classes in that area.

c. Eligibility, Registration and Attendance of Students.

- (1) Upon initial contact from an individual requesting to attend any defensive driving course, the school shall:
  - (a) Determine whether the individual is eligible to attend a defensive driving course for diversion of a traffic violation by querying the defensive driving database; and
  - (b) Ensure the violation for which the individual is requesting attendance at a defensive driving class is:
    - (i) an eligible moving violation as specified by A.R.S. § 28-3392(A);
    - (ii) permitted by the court for diversion if an eligible misdemeanor; and
    - (iii) not a violation resulting from a collision causing the death or serious physical injury of any person as defined in A.R.S. § 28-3392(C)(1);
- (2) The classroom school shall:
  - (a) Require each student to show official identification prior to beginning a class and verify the registration information for accuracy against the official information by direct comparison. Acceptable forms of identification are limited to an official government-issued driver license or an official federal or state photo identification card. Division staff may require a school to retain a photo copy of each driver license;
  - (b) Require individuals who are court-ordered to attend a defensive driving class to provide the court order requiring attendance at the time of class attendance. The school shall retain a copy of each court order;
  - (c) Collect and retain a copy of the individual's citation to permit verification of data and eligibility and furnish the citation on request to division staff;
  - (d) Provide an explanation to each individual enrolling in a defensive driving course of the provisions and implications of signing the affidavit of eligibility and require the individual to read and sign the affidavit of eligibility prior to beginning any defensive driving course for dismissal of a traffic citation;
  - (e) Provide students who complete a defensive driving course with a completion certificate including the following:
    - (i) name of the student;
    - (ii) date of the class;
    - (iii) court of jurisdiction;
    - (iv) citation or docket number for dismissal;
    - (v) name of the school; and
    - (vi) the school's authorized signature;
  - (f) Complete all required information on each certificate prior to delivery to the student; and
  - (g) Not issue a completion certificate to any student who has not signed the affidavit of eligibility;
- (3) The ADM school shall:
  - (a) Use the same methods for determining individual and citation eligibility pursuant to subsection (F)(19)(c);
  - (b) Make a positive identification of the individual enrolled in the defensive driving course, at the time of delivery of the course materials, by demonstrating the individual registered for the course is the actual participant during the time the course is taken and completed; and
  - (c) Follow all other requirements of this subsection.

20. Out-of-State Courses.

- a. A school shall coordinate the defensive driving attendance and completion of eligible offenders who receive an Arizona violation and are authorized by a court to attend an out-of-state program. Coordination shall include:

- (1) Verification of the individual's eligibility prior to attendance;
  - (2) Collection and retention of all student data and a notarized affidavit of eligibility;
  - (3) Collection and disbursement of court diversion fees and state fees as required by this section;
  - (4) Reporting of required data to the defensive driving database for an out-of-state student who completes a defensive driving course;
  - (5) Notification to the jurisdictional court of the student's completion and any other reports required by that court in connection with a student attendance; and
  - (6) Providing each out-of-state student with information regarding the student's responsibilities regarding attendance requirements.
- b. A student shall provide satisfactory evidence of course completion within the time allowed by the Arizona court of jurisdiction and shall comply with all applicable requirements and policies of statutes, this section and court or local rules.
  - c. The completion date for an out-of-state attendee is the date a valid completion certificate and all required fees are received by a school.
  - d. A school shall require and retain reasonable evidence the individual taking the out-of-state course is the same individual named on the Arizona violation for diversion. The school shall make a positive check of the individual's driver license at the time of the defensive driving course in a classroom setting or if an ADM course, upon delivery of materials to the individual, and notarization by jurat of the required documents.
21. Accounting Systems. A school shall comply with the following accounting and recording requirements:
- a. Establish an accounting and recording system ensuring accurate reporting of all transactions relative to the receipt of court diversion and state fees providing sufficient documentation for audit purposes.
  - b. Establish a cash receipts procedure including use of pre-printed, consecutively numbered receipts or receipts consecutively numbered by an automated system and issued to each student from whom a defensive driving fee is collected. Receipts shall provide the following information:
    - (1) Student's name;
    - (2) Receipt date;
    - (3) Amount received;
    - (4) Name of the individual making the payment;
    - (5) Identification of the individual receiving the payment;
    - (6) Method of payment;
    - (7) Sequential receipt number; and
    - (8) Name of the school.
  - c. Maintain a cumulative record of each individual who has prepaid for a defensive driving course but has not attended. A school shall handle all prepaid fees in accordance with this section and hold them in trust for the courts until disbursement on the prescribed schedule or until an approved refund is issued to the individual pursuant to this section.
  - d. Not enter student completion records in the defensive driving database in advance, nor enter a student record for any individual who has not actually completed an approved defensive driving course.

- e. Retain all records related to a student's attendance or otherwise required by this section a minimum of three years. Each student record shall include the following information:
    - (1) Receipt number;
    - (2) Student's complete name, address, date of birth, and license number;
    - (3) Citation information, including the number, charge number, court code, violation code and violation date;
    - (4) Receipt date;
    - (5) Amount received;
    - (6) Method of payment;
    - (7) Identification of the individual accepting the payment;
    - (8) Date and location of class assignment;
    - (9) Date the student completed the defensive driving course;
    - (10) Program code;
    - (11) Violation type;
    - (12) Location of class (in state or out of state);
    - (13) Copies of any applicable court order and other information significant to the record; and
    - (14) Type of defensive driving course, if not a classroom course.
  - f. Enter all required completion information on the defensive driving database no later than three business days after the date of each defensive driving course for each student who completed a course.
  - g. Enter a state fee record on the defensive driving database for any student who pays for a defensive driving course but does not complete the course within that payment period.
  - h. Enter a state fee record for any student who did not complete a defensive driving course no later than seven days after the end of either of the payment periods in which the fee was collected.
  - i. Correct, or request division staff to correct, a state fee or completion record within five days of system notice or discovery.
  - j. Maintain a checking account for court diversion and state fees for the sole purpose of preventing any co-mingling of school operating monies, fees from any court diversion and state fees until disbursed to the appropriate court.
  - k. Establish procedures resulting in compliance for the timely disbursement of all court diversion and state fees pursuant to subsection (F)(22).
22. Remittance and Reporting of Court Diversion and State Fees. A school shall comply with the following requirements regarding remittance of fees to the appropriate court and reporting requirements:
- a. Establish a remitting and reporting system ensuring accurate transmission of court diversion and state fees providing sufficient documentation for audit purposes. Division staff shall pre-approve any change in the remitting or reporting system.
  - b. Deliver electronic state fee remittance reports to division staff on or before the payment due date pursuant to subsection (F)(22)(e) in the required format. If a diskette is used, the school shall mail the diskette and a hard copy of the data with the report to division staff. The school shall retain electronic or diskette reports in an accessible format until the school receives confirmation from division staff the information is usable, complete, accurate and reconciled.

- c. Deliver manually prepared state fee remittance reports to division staff on or before the payment due date pursuant to subsection (F)(22) in the required format.
- d. Report general student and payment information and defensive driving course completion data directly to the defensive driving database in either an on-line or batch basis. Division staff shall determine whether the school will operate by batch processing or on-line processing, based on the needs of the court and the school.
- e. State fee remittance reports shall provide detailed records on each student the school is reporting; aggregate numbers are not acceptable. The report shall ensure a state fee is remitted for each student whose name appears on the remittance report. A school shall remit all state fees in compliance with the following:
  - (1) "Pay Period A" fees shall be received between the first through the fifteenth of the month by the 22<sup>nd</sup> day of that month;
  - (2) "Pay Period B" fees shall be received between the sixteenth through the 31<sup>st</sup> of the month by the seventh day of the following month;
  - (3) Submit a separate remittance report for each of the following categories:
    - (a) Individuals who completed the defensive driving course and the state fees are remitted for the pay period;
    - (b) Individuals who registered but did not complete a defensive driving course and the state fee was collected in the pay period;
    - (c) Individuals who completed the defensive driving course and the state fee was paid in a prior pay period; or
    - (d) If no payment is due to the supreme court, the school shall prepare and submit a negative state fee report;
  - (4) Each category listed in subsection (F)(22)(e)(3) shall include the following:
    - (a) Complete name;
    - (b) Birth date;
    - (c) Driver license number;
    - (d) Citation number;
    - (e) Violation;
    - (f) Court; and
    - (g) Date of defensive driving course completion, if applicable.
- f. Court diversion fee remittance reports shall conform to the format agreed upon between the court and school. If the school has a contract as a primary provider with a court, the primary provider contract shall state the format. The reporting period and remittance of diversion fees may be the same as provided in subsections (F)(22)(e)(1) and (2) or more often if required by the terms of a contract. A school shall transmit all diversion fees to the appropriate court in compliance with the following:
  - (1) Name of each court to which a payment is made;
  - (2) Payment date;
  - (3) Amount of the payment; and
  - (4) Check number.
- g. A school shall submit diversion fee information to division staff, but may submit copies of checks or receipts instead of the court remittance diversion fee report pursuant to subsection (F)(22)(f).
- h. Notify division staff and the court of jurisdiction of any student who completes a class but was not eligible for diversion and include in the notification the reasons the school failed to prevent

the attendance. This requirement does not apply to students who are court-ordered pursuant to statute, when the court order is issued prior to the defensive driving course attendance.

- i. Within three business days, replace any checks disbursed to any court returned by the bank for insufficient funds and add all returned check charges incurred by the school to the replacement check.

23. Reconciliation System. A school shall comply with the following financial and reporting requirements:

- a. Reconcile and balance all collected fees on a daily basis and account for the remainder in the account at all times.
- b. Reconcile the monthly bank statement for the court diversion and state fee checking account including:
  - (1) Aggregate receipts for the month shall match the aggregate deposits; and
  - (2) The month-end checking account balance shall match the unpaid amounts owed to the courts.
- c. Investigate on a monthly basis all disbursement checks outstanding for more than six months.
  - (1) If the payee is a court, the school shall notify the court of the outstanding check, cancel the outstanding check and reissue a new check, if necessary.
  - (2) If the payee is a student to whom a refund is owed, the school shall send a letter to the payee's last known address advising the payee the check has not been cashed.
  - (3) If the student payee responds the check is lost, the school shall cancel the outstanding check and issue a new check.
  - (4) If the student payee does not respond within 30 days or cannot be located, the school shall cancel the outstanding check and issue a check to the supreme court. The supreme court shall process the unclaimed refund according to state law.
- d. A batch school shall correct errors to state fee and completion records or submit a request for correction to division staff within five days of receiving notice from the system of the error or five days after discovery.
- e. Reconcile any insufficient fund checks and charges to the replacement check.

24. Refunds.

- a. Once a person begins a defensive driving course, the state fee and court diversion fee are non-refundable except as pursuant to this subsection. A school may refund other registration fees pursuant to its own guidelines, or at the direction of a court. A school shall provide a student with its refund policy prior to accepting the fees from the student.
- b. A school may provide a refund of court diversion and state fees when:
  - (1) A student pre-pays for a defensive driving course, does not begin the course and does not contact the school to reschedule for a future course. The school shall refund both the court diversion fee and the state fee 30 days after the scheduled defensive driving course date or upon notification from the student the student will not attend a course, whichever is first;
  - (2) An officer fails to file a citation with a court and the cited person attends a defensive driving course for that citation. Upon notification by the jurisdictional court, the school

shall notify division staff a refund is requested. Upon written approval by division staff, the school shall refund the court diversion and state fee to the student; or

(3) A citation is dismissed by a jurisdictional court on its own motion, for technical problems not correctable under civil traffic rules of court.

- c. Refund of court diversion or state fees shall result in restoration of the student's eligibility for a defensive driving course.
- d. Refund of state fees to a school or a student is not permitted for an ineligible violation or an ineligible student who attends a defensive driving course, whether by fault of the student or school.
- e. At its discretion, a court may direct refund of a court diversion fee to a student, or may direct the school to forward the fee to the court for a bond or other amount due the court, up to the amount of the default for the citation.
- f. A school shall maintain complete and accurate records of all refunds and shall attach supporting documentation to each refund disbursement.
- g. In cases where refunds cannot be authorized under this section, the Board may authorize, pursuant to subsection (D)(4)(b), restoration of eligibility for a student who attends a defensive driving course but cannot have the violation dismissed because the violation was ineligible for diversion. An ineligible violation is any violation not included in A.R.S. § 28-3392(A).

25. Assumed Business Name. These requirements are contained in ACJA § 7-201(F)(3).

26. Instructors. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:

- a. An instructor may exercise the privileges of certification only under the auspices of a school.
- b. An instructor shall notify division staff of any change in mailing address within five days.

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

- 1. Expiration Date. All school and instructor certifications expire at midnight December 31, 2006. Beginning January 1, 2007, there is a one time renewal cycle for ten months and all certificates shall expire October 31, 2007. Beginning November 1, 2007 and continuing thereafter, all certificates shall expire at midnight, October 31<sup>st</sup> of odd numbered years.
- 2. Schools. Each certified school seeking renewal of certification shall pay the specified renewal fee in subsection K, calculated by division staff based on the total number of students completing a defensive driving course during the prior state fiscal year.
- 3. Instructors. All instructors shall:
  - a. Apply for renewal by submitting a current original motor vehicle record from any jurisdiction where the applicant instructor has held a driver license in the twelve months preceding the date the applicant instructor files the renewal application with division staff.
  - b. For traditional classroom instructors, teach a minimum of six classes for a school during the preceding twelve months and, for ADM instructors, demonstrate 192 hours on duty to answer

call-in or email questions from students, pursuant to subsection (M)(12), for the renewal period ending December 31, 2006.

- c. For traditional classroom instructors, teach a minimum of four classes for a school and, for ADM instructors, demonstrate 128 hours on duty to answer call-in or email questions from students, pursuant to subsection (M)(12), for the renewal period from January 1, 2007 through October 31, 2007.
  - d. For traditional classroom instructors, teach a minimum of eight classes for a school and, for ADM instructors, demonstrate 256 hours on duty to answer call-in or email questions from students, pursuant to subsection (M)(12), beginning with the renewal cycle November 1, 2007 and all future renewal cycles. The employing school shall maintain records of classes taught or on duty hours for each employed or contracted instructor and shall provide them on request.
  - e. Complete at least six hours of continuing education training through December 31, 2006 and an additional six hours from January 1, 2007 through October 31, 2007. Beginning with the renewal cycle of November 1, 2007 and thereafter, complete twelve hours of continuing education during the renewal cycle, unless the Board grants an extension.
  - f. Pass the examination for certification required pursuant to subsection (E)(2)(e) by September 1, 2009 to qualify for renewal of certification.
4. Restricted Certification.
- a. In order for a school to cover their scheduled defensive driving courses in the event of an emergency where a certified instructor is not available to teach a course, an owner or principal of a school may apply for, and the Board may grant a restricted certificate under the following conditions:
    - (1) The owner or principal shall apply for the restricted certificate on a form approved by the Board;
    - (2) The owner or principal holds a valid certificate as an instructor and meets all renewal requirements, except the requirement for the number of classes taught; and
    - (3) The owner or principal has not had a certificate that has been revoked or suspended.
  - b. To remain eligible to renew a restricted certificate, owners and principals shall complete all renewal requirements each renewal cycle except the number of defensive driving courses taught or hours on duty, pursuant to subsection (G)(3).
5. Denial of Renewal. In addition to the requirements in ACJA § 7-201(G), the following requirements apply:
- a. The Board may refuse to renew the certificate of any instructor who fails to meet the standards of this section and ACJA § 7-201 on two or more successive classroom monitoring sessions, completed more than 30 days apart.
  - c. If an instructor's certification lapses or is denied due to failure to meet renewal requirements, the instructor is not eligible to apply for subsequent certification for six months.

**J. Codes of Conduct.**

1. Schools. This code of conduct is adopted by the supreme court to apply to all schools in the state of Arizona, pursuant to A.R.S. § 28-3395. The purpose of this code of conduct is to establish minimum standards of performance for schools.
  - a. Curriculum. A school shall exercise extreme care and diligence and ensure all materials used in the instruction of defensive driving courses, whether in a classroom or in an ADM format, are in the public domain or original and not copied without the appropriate written permission.
    - (1) A school shall make all reasonable efforts to secure accurate and current information in its presentations in defensive driving courses.
    - (2) A school shall not use any curriculum material or teaching methods not approved by the Board.
  - b. Ethics. A school shall not operate in a manner reflecting adversely on the judiciary, board, courts, division staff or other agencies involved in the administration of justice including law enforcement agencies and attorneys.
    - (1) A school shall maintain the confidentiality of all defensive driving student records and shall not disclose defensive driving database information to any third party. A school may disclose information only upon presentation of reasonable evidence the individual seeking the information is the same individual who is the subject of the record. A school shall refer all third party requests for information to division staff.
    - (2) A school shall not perform nor permit its employees, representatives or third party contractors to perform judicial functions or functions for court staff. School employees, representative or third party contractors shall not volunteer assistance to court staff in their official duties.
  - c. Classrooms. A school shall maintain the appropriate decorum in the classroom to promote an atmosphere of learning for students. A school shall:
    - (1) Direct the instructors to require students to be punctual and attentive;
    - (2) Direct the instructors to prevent or control disruptions by students interfering with the conduct of the defensive driving course or distressing other students;
    - (3) Direct the instructors to prohibit students from sleeping or engaging in other activities that are not a part of the school's approved defensive driving course during the 240 minutes of classroom instruction;
    - (4) Direct the instructors to forbid the use of electronic devices or laptop computers by students causing inattention or distractions from the learning of the student or other students in the defensive driving course; and
    - (5) Not use a facility for a classroom presentation which may create distractions prior, during or after the presentation.
  - d. Compliance. A school shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section.
2. Instructors. This code of conduct is adopted by the supreme court to apply to all instructors. The purpose of this code of conduct is to establish minimum standards of conduct for all instructors.
  - a. Responsibilities. The fundamental responsibilities of an instructor is to ensure the instruction of all students in the approved curriculum and to meet the mandatory 240 minutes of instruction time, in a professional manner encouraging student learning.

b. Ethics. An instructor shall exhibit the highest degree of ethical conduct and maintain the confidentiality of information provided by students.

- (1) An instructor shall be aware at all times the instructor represents the supreme court and the instructor's employing school.
- (2) An instructor shall not act disagreeably or permit personal feelings, prejudices, animosities, or friendships to influence the student, classroom conduct or delivery of the defensive driving course.
- (3) An instructor shall not accept any gratuities or favors from a student, other classroom participant or court employee.
- (4) An instructor shall avoid the appearance of a conflict of interest or self-dealing. A conflict of interest or self-dealing arises where the instructor has a personal or agency interest other individuals may perceive as self-serving or adverse to the position of the student, school or court.
- (5) An instructor shall exhibit the highest degree of professional conduct. An instructor shall:
  - (a) Act in a professional manner, prior, during and after the delivery of a defensive driving course;
  - (b) Dress in business casual attire, when teaching in a classroom setting;
  - (c) Not use a classroom presentation as a forum for any purpose except the presentation of the approved curriculum;
  - (d) Respond to questions or comments in a constructive manner, to encourage student questions and participation. This requirement applies to a classroom presentation and when an instructor is answering an on-line question;
  - (e) Respond in a constructive and professional manner to any disruptive activity in a classroom;
  - (f) Not make any derogatory comments concerning the courts, board, court employees, law enforcement or other professionals associated with the judicial system; and
  - (g) Not advise or provide interpretation on any traffic law or the legality of a traffic law or citation issued to a student.
- (6) Knowledge and Training. An instructor shall:
  - (a) Understand the approved curriculum and have the knowledge and training to present the information to the students through an understandable adult learning technique;
  - (b) Present only the material contained in the school's curriculum;
  - (c) Respond to students' questions with clear and correct answers. If the instructor does not know the answer, the instructor shall advise the student, research the question and obtain the correct answer. The instructor shall provide the answer to the student, if possible, before the end of the classroom presentation or on-line defensive driving course. If the instructor cannot locate the answer before the end of the presentation or course, the instructor shall follow-up with the information for the student as soon as possible; and
  - (d) Take the necessary steps to become informed of any statutory or local ordinances changes in the traffic laws.

7. Compliance. An instructor shall perform all duties and discharge all obligations in accordance with current Arizona law and the administrative rules, court orders, administrative orders, ACJA § 7-201 and this section.

#### **M. Alternative Delivery Method Policies.**

1. A school, including a school proposing to present or presenting a defensive driving course via an ADM shall meet the standards for schools and instructors, as specified in ACJA § 7-201 and this section. These policies address the specific requirements for ADM formats where they differ from classroom delivery format.

2. **Alternative Proposals.** Division staff and the Board shall consider alternative proposals submitted by a school; these policies are not intended to limit innovative methods of providing service other than as required by the existing standards contained in this section.
3. **Content Knowledge Testing.** One purpose of a defensive driving course is to provide a sanction and deterrent to continued offenses by the course participant. By its nature, a home-delivered ADM format is a more convenient process for the participant and manifests an inherent reduction in sanction and deterrent effect. To restore an equitable standard of sanction and deterrent to classroom attendance, a school offering an ADM format shall require students to complete and pass content knowledge testing pursuant to this subsection.
4. **Temporary Waiver of Specific Requirements.** The Board, upon application and receipt of fees by an applicant school, may waive the requirement for an applicant school to have an Arizona office and obtain commercial general liability insurance until the certification process is complete to a point a certification date can be definitively projected. The school shall then fulfill these requirements before the Board issues certification.
5. **Local Business Office and Local Telephone Service.** Each school shall maintain a business office and a local or toll-free telephone number in the state of Arizona through which the school's Arizona business is transacted. A school may conduct certain specified functions through other offices if approved in the business plan prior to implementation; and provided the functions are performed in compliance with all applicable provisions of this section. For example, a school may conduct registration through a national office, or center, provided the records are then duplicated for retention at the Arizona office, or are available to the Arizona office in an on-line format. A school shall retain student records specific to Arizona in this state for inspection as required, including eligibility affidavits, court orders, citations, student evaluations, registration and defensive driving course completion information. A school shall make any and all records available for inspection upon demand, without notice.
6. **Management Representation.** Each school shall maintain a management level employee or representative within the state who has contracting and decision making authority on behalf of the school.
7. **License to Conduct Business in Arizona.** Each school shall maintain all licensing required to legally conduct business in Arizona and shall operate in full compliance with all Arizona rules, statutes and ordinances. Division staff and the Board do not provide advice or information on legal matters. A school may obtain information from, among others, the Arizona Corporation Commission and the Arizona Department of Insurance.
8. **Curriculum and Updates to Curriculum.** Each school shall maintain an approved Arizona specific curriculum and program that meets all requirements and monitoring standards pursuant to ACJA § 7-201 and this section. A script of the proposed defensive driving course for initial review shall accompany an application for a school proposing to present classes via an ADM format. A school shall design curriculum specifically for Arizona, accurate in all points of Arizona laws as required, and in defensive driving techniques. After a script has been approved, the applicant school shall produce and submit the actual defensive driving course to division staff for review. The defensive driving course shall match the approved script. The Board is the final authority for matters of defensive driving course material accuracy.
9. **Changes to Lesson Plan or Program.** After approval and acceptance, a school may not change the lesson plan and defensive driving course in any way without prior approval. The Board may require a school to make changes to any curriculum or defensive driving course at any time, if determined necessary for compliance with ACJA §§ 7-201, -205 and applicable statutes and court rules. Once

notified, a school shall complete required changes and replace all obsolete product or coursework within 30 days for written or Internet-based materials, and within 60 days for video materials.

10. Operational, Financial and Administrative Processes. A school shall obtain written pre-approval of its operational procedures and processes from the Board. Once approved, the school may not change the procedures and processes in any way until the school obtains written approval of the changes from the Board.
11. Instructors and Training. An ADM school shall maintain a sufficient staff of certified instructors to provide prompt answers to student questions and shall ensure the instructors are available from 8:00 a.m. through 9:00 p.m., local time for the student, on each day the defensive driving course is available for student work. The instructors shall meet all initial and renewal certification requirements of ACJA § 7-201 and this section regarding training and experience, prior to instructing or assisting any Arizona student in an ADM defensive driving course. The Board may require content knowledge in lieu of, or in addition to required training, and may authorize an out-of-state school to plan and conduct its own training if the training meets the requirements of ACJA § 7-201 and this section. Materials provided to students shall include phone numbers and e-mail addresses of the available instructors to allow students to receive answers to their questions quickly and efficiently. A school shall encourage students to call or e-mail with questions and the school's process for a student to make direct contact with an instructor shall not create an impediment to a student desiring to do so.
12. Instructor Experience Requirements. Each classroom instructor is required to teach a minimum number of classes each renewal period for eligibility to renew the instructor's certificate, pursuant to subsection (G)(3). An instructor who does not instruct concentrated material in the classroom (an instructor who is only on duty to answer called in or e-mailed questions) does not obtain a comparable level of experience from the same amount of hours on duty. Each instructor who does not present Arizona-specific defensive driving course material in a classroom setting may substitute the required hours at the rate of eight to one, as specified in subsection (G)(3), each instructor renewal cycle.
13. Instructor On-Duty Schedules. A school shall provide accurate schedules of on-duty instructors for monitoring purposes. Division staff monitors may call on-duty instructors at any time and ask questions on defensive driving course material. Failure to answer questions correctly may result in the filing of a complaint regarding the instructor and school. The questions asked by division staff may include specific questions on Arizona traffic laws and defensive driving topics. A school shall provide instructor schedules to division staff once each month and shall correct the schedules as necessary to maintain them in an accurate and current condition.
14. Validations Required.
  - a. A school shall demonstrate adequate security measures are in place to prevent circumvention by the general public and to validate:
    - (1) student identity at registration and throughout the defensive driving course;
    - (2) participation throughout the defensive driving course;
    - (3) time requirements are met; and
    - (4) successful completion of the defensive driving course.
  - b. A school shall obtain and keep on file a copy of the student's citation prior to the student beginning an ADM course. A school may accept citations by fax, mail, or via electronic means.
15. On-Site Testing.

- a. On-site testing is the standard for purposes of validation of student identity and participation in the defensive driving course. Within seven days after completion of the course, and within the time allowed by the court for completion, a school shall ensure each student is physically identified in person through a comparison of the student's driver license or identification card in compliance with this section. The school shall immediately test each student to assure definitively the student is the person who completed the course.
- b. Each test shall contain a minimum of 50 questions. Each student shall pass 25 content questions with at least an 80% correct score. In addition, each student shall answer 25 course environment questions with at least a score of 90% correct. One retest of content questions only is permitted provided the student completes the retest within the time allowed by the court; and provided the student has reviewed those sections of the course where test failure occurred prior to retest. A school shall refer any student who fails the test after the first or second attempt back to the court or to a classroom defensive driving course if time permits. No retest is permitted on course environment questions. A school shall not refund state fees for any student failing the required test but shall forward the state fees to the supreme court. The testing proctor shall ensure the person taking the test is both the person who was cited and the person who completed the defensive driving course.

16. Alternatives to On-site Testing: In-Course Validation Questions.

- a. A school may propose an alternative method of ensuring student identity validation and participation if the defensive driving course meets the standards of ACJA § 7-201 and this section. The Board may approve alternative methods if the school can demonstrate the proposed method meets the requirements of this section and provides the same standard of identity and participation assurance as the standard method outlined in this section. A school shall positively ensure the person taking the defensive driving course is the person cited. While engaged in the defensive driving course, and if on-site testing for identity and participation validation is not used, each student shall answer validation questions correctly in at least the following categories:
  - (1) identity verification questions;
  - (2) course environment verification questions; and
  - (3) course content questions.
- b. Identity verification questions are personal information questions only the student should be able to answer. Course environment questions are questions about the course only someone who has viewed the defensive driving course can answer. Course content questions are questions developed to establish the student has learned the material presented.
- c. During the defensive driving course, a school shall use at least fifteen questions in each category to ensure the student has participated in the course completely and has learned the material. A student shall correctly answer identity verification questions at 100% and course environment questions at 90% on the student's first attempt. A school shall not allow a student who does not meet these requirements to continue to the final exam phase of the course.

17. Method for Validation Questions. A school shall disclose the method used to compile and assign validation questions. A school shall draw the information compiled for validation questions from several independent databases, and shall not obtain this information from the student, court of jurisdiction, or the supreme court.

18. Time Limits for Validation Questions. A school shall limit the time available for a student to respond correctly to each validation question to no more than 30 seconds for each question.

19. **Prior Approval for Test Questions.** A school shall submit all test questions and identity verification processes to the Board for pre-approval. Once approved, a school shall submit any proposed changes to the Board for pre-approval.
20. **Test Failure by Students.** A school shall not issue a completion certificate to a student or report a student as completed to any court or entity if the student fails to pass any of the required tests at the specified scoring levels.
21. **Defensive Driving Course Completion Requirements.** Each student shall participate in completion of a defensive driving course for a minimum time of 240 minutes or four hours and a maximum of 270 minutes or four and one half hours. Each student shall be actively engaged in the curriculum or defensive driving course during the four hours. This time shall include the time used to test the student's knowledge and retention of the material, but does not include time spent for identity or participation validation processes, nor for travel to and from a testing site. All alternative formats shall have approved processes in place to ensure the time in the course is at, or in excess of the active minimum time required but does not exceed the maximum time of four and one half hours, or 270 minutes. For example, an Internet delivery method shall have programming that tracks the time each student actively spends in the defensive driving course, and shall not permit any student to complete the course in less than the required time. A school shall not issue a completion certificate to a student or report the student as completed to a court unless the student has been actively involved in approved course work for a minimum of four hours or 240 minutes. A student shall correctly answer the required number of validation and course content questions as required by these policies and pass the final examination before receiving a certificate of completion from the school.
22. **Final Testing.** If a school proposes or uses a method other than the standard method on-site testing as specified in these policies, the school shall administer a content knowledge test to each student before completion of the defensive driving course. The test shall include 50 questions including 25 course content questions and 25 course environment verification questions as described in subsection (M)(16). The Board may waive the requirement for environmental questions if the school can demonstrate it can effectively validate the student's identity and participation without environmental questions. A school may allow a student who does not pass the final test to review sections missed or repeat the defensive driving course one time, and may retest the student on content questions only one time. No retest is permitted for environmental questions. A school shall not issue a completion certificate to a student who fails the final examination a second time.
23. **School Accounting Procedures.** A school shall follow all accounting requirements pursuant to ACJA § 7-201 and this section. A school that offers programs for non-Arizona courts national programs shall establish a separate account for public funds. A school shall deposit all Arizona court fees in this separate account until the fees become payable to the courts, or are refunded with the approval of the courts. A school shall record and account separately all fees collected on behalf of Arizona courts from other funds contained in the public funds account required by this policy. A school shall not co-mingle school funds with public funds.
24. **Class Start Time.** For self-paced alternative delivery options, for example, Internet or correspondence courses, the student has begun the defensive driving course at the time registration is completed and the program's lesson plan content has been accessed for the first time.
25. **Student Requirements and Notifications.** A school shall notify each prospective student of all requirements, policies and procedures for participation in the defensive driving course, including hardware and software requirements, costs, payment method, privacy and confidentiality policies, requirements for successful completion and the criteria for failing the defensive driving course, and penalties for fraud. The eligibility affidavit shall be presented and accepted. The school shall specifically include notice of the requirement a final failure in testing results in no credit for the on-line course. The school shall also notify the prospective student acceptance of the terms means no

refund is possible after beginning the defensive driving course, except in cases where technical problems exist with the citation that cannot be corrected under Arizona Rules of Court. The school shall give the prospective student the option to stop the process without a fee at any time before beginning the defensive driving course. A school shall permit a student to begin the defensive driving course only after the student has accepted the required terms and conditions.

26. **Student Fee Payment.** A school shall collect all fees before students are allowed to begin a defensive driving course. Once a student begins a defensive driving course with a school, the school is responsible for payment of fees regardless of whether the fee has been collected from the student.
27. **Completion of Out-of-State Students.** The completion date for each on-line student is the date of actual completion. Pursuant to subsection (F)(21), a school shall enter the completion date for an out-of-state classroom student as the date the school receives the required completion documentation for that student, a person residing in a state other than Arizona who has received an Arizona citation while traveling through the state. This requirement places the responsibility for timeliness upon the student. This is not necessary for an on-line school and therefore does not apply.
28. **Students Caught Cheating or Failing to Pass Tests.** A school shall actively seek to identify dishonesty or cheating by the students of ADM defensive driving courses and shall record and disclose its processes to do so. A school shall not allow a student who has been identified as cheating to continue or complete the defensive driving course and shall report the student to the court of jurisdiction for action as determined necessary by the court of jurisdiction. A school shall refuse completion to a student who does not pass content knowledge or course environment portions of tests or both, and shall refer the student to the court of jurisdiction and report the student to division staff.
29. **Certification Process Defensive Driving Course Demonstrations.** Division staff shall modify the course demonstration process for ADM applicants to satisfy the intent of the course demonstration process, to insure the course as presented meets the standards for defensive driving courses in Arizona. For example, for an Internet defensive driving course, division staff shall take the Arizona defensive driving course to evaluate the content and the security and validations included. During the evaluation, division staff shall participate in the course and attempt to cheat or “break” the validations of the course.
30. **Security of Facilities.** A school shall house technical facilities (ISP-host, data storage and support systems) in secure facilities, and shall ensure all information is inaccessible to unauthorized parties. The information contained in the defensive driving database is not a public record and is confidential.
31. **Technical Assistance.** Instructors shall possess and maintain adequate knowledge of the technical aspects of the defensive driving course to effectively deal with students’ technical difficulties as well as content questions. If the instructor does not have sufficient technical knowledge, the school shall provide technical staff that are knowledgeable and available at all times the defensive driving course is available to students. A school shall ensure instructors and technical staff, as utilized, are available telephonically at all times as required by these policies.
32. **System Availability.** Maintenance, upgrades and repairs to a server or system shall not interrupt students who are on-line taking the defensive driving course. A school shall notify students immediately of technical difficulties as they arise, including an estimate of the length of time the system may be down.
33. **System Reliability.** A school shall ensure delivery of Internet-based defensive driving courses is reliable to allow students to complete their course of study within the time allowed by the court. A school shall immediately correct excessive technical problems or downtime which results in completion problems for students. Failure to provide access at a reliable and reasonable level may result in disciplinary action against the school. A school shall correct technical problems and make

systems available for use by students after technical problems or maintenance within 24 hours of system problems or shut-down.

34. Access to Assistance and Support Functions. A school shall ensure students are able to obtain access to a certified instructor or a technical staff member within five minutes during those times required by this subsection.
35. Correction of Problems. A school shall address problems and solutions implemented to maintain the quality of the defensive driving course and responsiveness to student and court needs. Failure to comply is cause for disciplinary action pursuant to ACJA § 7-201(H) and this section.
36. Confidentiality. A school shall protect confidential student information and defensive driving course records, including testing and validation questions to ensure the security of the records is not compromised. A school shall ensure the security of all student data and school records, both physically and electronically, to prevent inadvertent or unauthorized disclosure of any confidential data or information.
37. Records Retention. A school shall retain student records as required by ACJA § 7-201 and this section. Student records shall include all facts pertinent to ensure these standards are met for each student, including a record of validation and course content questions used, including dates and times, and which were answered correctly or incorrectly, the complete electronic “footprint” of each student’s participation in the defensive driving course, including log-in and log-out times and evidence the student’s time engaged was in active participation, and a record of each student’s performance on final testing and retest if required. A school shall retain final disposition of each student, pass or fail, and the reason for any failure or suspension. A school shall retain a copy of a student’s final exam for at least three years from the date a defensive driving course was completed.
38. Student Failure Disclosure. A school shall disclose the procedure used to handle students who fail validation or course content questions or tests.
39. Self-review. A school shall establish, follow and disclose procedures for self-review or audit of the school’s validation processes as required pursuant to this subsection.
40. Completion Certificates. A school shall provide an original copy of a completion certificate to the student upon successful completion of the defensive driving course. An electronic, faxed or “.pdf” file copy of a certificate sent to a student in lieu of providing an original hard copy is not permissible. However, upon request, a school may provide a duplicate copy of a certificate to the student’s court of jurisdiction by mail, fax, or electronic means. A school shall complete and issue defensive driving course completion certificates and shall not allow a third party to complete or issue the certificates.
41. Required Fees and Documents. A school shall secure payment of all fees and have all required documents physically “in-hand” prior to the student beginning the defensive driving course. The student shall indicate acknowledgment and acceptance of all terms and conditions.
42. Advertisements. Commercial advertisements are not permitted during the defensive driving course.
43. No Refunds for Failure to Complete. A school shall notify each student that once the defensive driving course has begun, regardless of technical or other difficulties encountered, the student is required to complete the course and required testing within the time allowed by the court of jurisdiction, Arizona laws and this section. Regardless of circumstance, no refund is permitted for state fees if the student fails to successfully complete the defensive driving course during the time allowed absent another valid reason for refund as provided by subsection (F)(24).

44. Collection of Student Data. A school shall obtain prior approval from each student for any third-party data the school will collect concerning the student and the student's participation in a defensive driving course.

**Defensive Driving Certification  
Continuing Education Policy for Instructors**

1. Definitions. The following definitions apply throughout this policy:
  - a. "ACJA" means Arizona Code of Judicial Administration.
  - b. "CE" means continuing education.
  - c. "Instructor" means a person who is certified pursuant to ACJA §§ 7-201(E) and 7-205 to conduct defensive driving courses for a certified school; or in the case of alternative delivery methods, where an instructor is not present, who serves as the certified school's point of contact to answer student questions by telephone or electronic means.
2. Purpose.
  - a. Ongoing CE is one method to ensure instructors maintain competence in the field after certification is obtained. CE also provides opportunities for instructors to keep abreast of changes in the profession, applicable traffic laws, 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 instructors, including CE. This policy is intended to provide direction to instructors to ensure compliance with the CE requirements and to provide for equitable application and enforcement of them.
3. Applicability.
  - a. All instructors shall comply with the CE policies in ACJA §§ 7-201 and 7-205.
  - b. Pursuant to ACJA § 7-205(G)(3)(e), all instructors who hold individual certification shall complete at least six hours of CE through October 31, 2007. Beginning with the renewal cycle of November 1, 2007, and thereafter, instructors shall complete 12 hours of CE during the renewal cycle, unless the board grants an extension.
4. Responsibilities of instructors.
  - a. It is the responsibility of each instructor to ensure compliance with the CE requirements, maintain documentation of completion of CE, and to submit the maintained documentation to the Defensive Driving Program upon the request of the board or division staff.
  - b. Upon request, each instructor shall provide all additional information required by the board or division staff when reviewing renewal applications and CE documentation.
5. Standards.
  - a. Maximum credit. An instructor may receive up to 50 percent in one activity of the total number of CE hours required for renewal, if the course/program is relevant to the profession.

- (1) This limit shall not be exceeded unless the board approves an additional amount be credited, on a case-by-case basis, for an exceptionally lengthy or involved, professionally relevant activity, course, or event completed by the instructor. The Board's decision is final in all such matters.
    - (2) CE credits shall not be repeated during a renewal period. An exception shall be allowed for an instructor who attends a supreme court training program or conference once per calendar year.
  - b. Minimum time. Each CE activity shall consist of at least 30 minutes of actual clock time spent by an instructor in actual attendance at and completion of a CE activity.
    - (1) "Actual clock time" includes the total number of hours attended, minus the time spent for breaks, meals, and business meetings. After completion of the first 30 minutes of a CE activity, credit shall be recognized in additional 30-minute increments.
    - (2) If an instructor attends part, but not all of a CE activity, unless otherwise provided for in the curriculum, the instructor is not eligible to claim partial credit completion.
  - c. Documentation of attendance or completion. When attending or completing a CE activity, each instructor shall obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation shall include the:
    - (1) name of the sponsor;
    - (2) name of the participant;
    - (3) topic of the subject matter;
    - (4) number of hours actually attended or the number of credit hours awarded by the sponsoring entity;
    - (5) date and place of the program; and
    - (6) signature of the sponsor or an official document from the sponsoring entity.
  - d. CE in excess of the required number of hours may not be carried forward into any future renewal period.
6. Authorized CE Activities, Courses and Events.
  - a. CE Activities. A CE activity shall address the areas of proficiency, competency, and delivery of defensive driving instruction, impart knowledge and understanding of the field, applicable Arizona traffic laws and safe driving techniques, and increase the participant's understanding of the conduct and responsibilities of an instructor. Authorized CE activities include the following subjects:
    - (1) The role and responsibility of instructors including ACJA §§ 7-201 and 7-205.
    - (2) Topics pertaining to any defensive driving curriculum subject matter listed in ACJA § 7-205(E)(j)(1).
    - (3) Ethics for instructors, including cooperation with the court staff, schools, students, and other certified instructors. Also, professional courtesy and impartiality to all students, and knowing the differences between providing information versus giving legal advice. At least one hour in an ethics-related topic pursuant to ACJA § 7-250(J)(2) is required each renewal period.
    - (4) Traffic laws pertinent to Title 28 of the Arizona Revised Statutes; Arizona Rules of Court; administrative orders and rules; Motor Vehicle Division issues which pertain to the Defensive Driving Program; and, current issues in the Arizona court system affecting the Defensive Driving Program.

- (5) Participation in accompanying an on-duty certified law enforcement officer who is actively engaged in traffic enforcement activities.
  - (6) Adult education techniques.
  - (7) Presentation skills including utilizing reference materials and software for presenting defensive driving courses.
  - (8) Professional/personal development topics such as interaction management, time management, stress management, and CPR training.
  - (9) Eligible in-service training conducted by a school owner or principal.
- b. Conferences. An instructor may receive CE credit for attendance at a conference relevant to the profession. A certificate holder may receive CE credits for attendance at such a conference, provided the conference is directly related to the profession. Breaks, meals, business meetings, and general sessions of the conference do not qualify as CE hours.
  - c. University, college and other educational institution courses. University, college and other accredited educational institution courses and/or professional development programs. An instructor may receive CE credit for a course or professional development program provided by these organizations if the instructor successfully completes the course or program as certified by the institution and the course/program is related to the profession.
  - d. Self-study. An instructor may receive CE credit for self-study activities, including video and audio tapes, online computer seminars, and other methods of independent learning. The employing school shall confirm the self-study was completed by the instructor for the stated number of hours and topic. A copy of the curriculum shall be submitted to Division Staff upon request.
  - e. Serving as faculty. An instructor may receive CE credit for serving as faculty, instructor, speaker, or panel member of an instructional seminar directly related to defensive driving. An instructor may receive CE credit for the presentation time and up to two hours of preparation time for each hour of presentation.
7. Non-Qualifying Activities.
- a. The following activities shall not qualify for CE credit for instructors:
    - (1) Educational course work and training completed to qualify for certification;
    - (2) Trainee supervision activities. An instructor shall not receive CE credit for trainee supervision;
    - (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.
    - (6) Meetings. Regularly scheduled meetings of committees on which the certificate holder serves do not constitute CE. Also, meetings held for the purpose of conducting a business meeting, election, policymaking session or program orientation do not constitute as in-service training.
  - b. If an instructor attends part, but not all of a CE activity, the instructor is not eligible to claim partial credit completion.
8. Compliance and Non-Compliance.
- a. Affidavit of compliance. An instructor shall submit an affidavit of CE compliance when applying for renewal of certification. The affidavit shall be in the format provided by division staff.

- b. Pro-ration of CE requirement. An instructor whose certificate expires less than one year from the effective date of certification shall complete CE on a pro-rated basis at the rate of at least one CE credit for every two months the instructor has been certified. In subsequent renewal periods, the instructor shall complete the normal 12-hour CE requirement. Pro-ration of the CE requirement does not apply to an instructor who previously held certification and allowed his/her certification to lapse.
- c. Extension of CE requirements. An instructor seeking renewal of certification who has not fully complied with the CE requirements may request an extension of the CE requirements under the following conditions:
  - (1) The instructor submits a written statement to the board, explaining the facts regarding non-compliance and requesting an extension of the requirements no later than the September 1<sup>st</sup> preceding the October 31<sup>st</sup> expiration of the certificate. Upon a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the instructor to complete the CE requirement.
  - (2) The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the instructor has been unable to devote sufficient hours to fulfill the requirements during the renewal period because of:
    - (a) full-time service in the armed forces of the United States during a substantial part of the renewal period;
    - (b) an incapacitating illness documented by a statement from a currently licensed health care provider;
    - (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or
    - (d) any other special circumstances the board deems appropriate.
  - (3) An instructor whose certificate has been suspended or revoked by the board is not eligible to request an extension of the CE requirement.
  - (4) The board or division staff may request documentation or additional information from an instructor applying for renewal to verify compliance with the CE requirements. If the instructor 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 CE compliance. During each renewal review period, the board shall direct division staff to randomly select 20 percent of instructors to demonstrate CE requirement compliance through submission of proof of CE participation. Refusal or failure to respond to a board or division staff request for audit documentation of CE compliance may result in denial of renewal of certification or disciplinary action pursuant to ACJA § 7-201(H) and this section.
- e. An instructor who falsifies documents or misrepresents attendance or an activity is subject to any or all of the following actions of the board:
  - (1) Denial of renewal of certification; and
  - (2) Disciplinary action pursuant to ACJA § 7-201(H), § 7-205, and/or this CE policy.

9. Board Decision Regarding CE Compliance.

- a. Upon a review of CE documentation and any applicable additional information requested, the board may:
  - (1) Recognize instructor compliance with the CE requirement;

- (2) Require additional information from the instructor 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 instructor, in writing, of the board's decision. An instructor may appeal the decision by submitting a written request for review to division staff within fifteen days of receipt of notification of the board's decision. The instructor requesting review may request to appear before the board at the next available regularly scheduled board meeting.
  - c. The certification of an instructor who timely appeals a decision by the board regarding CE 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.

### **Arizona Revised Statutes (ARS)**

#### **28-695. Aggressive driving; violation; classification; definition**

- A. A person commits aggressive driving if both of the following occur:
  1. During a course of conduct the person commits a violation of either section 28-701, subsection A or section 28-701.02 and at least two of the following violations:
    - (a) Failure to obey traffic control devices as provided in section 28-644.
    - (b) Overtaking and passing another vehicle on the right by driving off the pavement or main traveled portion of the roadway as provided in section 28-724.
    - (c) Unsafe lane change as provided in section 28-729.
    - (d) Following a vehicle too closely as provided in section 28-730.
    - (e) Failure to yield the right-of-way as provided in article 9 of this chapter.
  2. The person's driving is an immediate hazard to another person or vehicle.
- B. A person convicted of aggressive driving is guilty of a class 1 misdemeanor.
- C. In addition to any other penalty prescribed by law:
  1. A person convicted of a violation of this section shall attend and successfully complete approved traffic survival school training and educational sessions that are designed to improve the safety and habits of drivers and that are approved by the department.
  2. The court shall forward the abstract of conviction to the department and may order the department to suspend the person's driving privilege for thirty days.

- D. If a person who is convicted of a violation of this section has been previously convicted of a violation of this section within a period of twenty-four months:
1. The person is guilty of a class 1 misdemeanor.
  2. In addition to any other penalty prescribed by law, the court shall forward the abstract of conviction to the department. On receipt of the abstract of conviction, the department shall revoke the driving privilege of the person for one year.
- E. The dates of the commission of the offense determine whether subsection D of this section applies. A second or subsequent violation for which a conviction occurs as provided in this section does not include a conviction for an offense arising out of the same series of acts.
- F. For the purposes of this section "course of conduct" means a series of acts committed during a single, continuous period of driving.

**28-701. Reasonable and prudent speed; prima facie evidence; exceptions**

- A. A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. A person shall control the speed of a vehicle as necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.
- B. Except as provided in subsections C and D of this section or except if a special hazard requires a lesser speed, any speed in excess of the following speeds is prima facie evidence that the speed is too great and therefore unreasonable:
1. Fifteen miles per hour approaching a school crossing.
  2. Twenty-five miles per hour in a business or residential district.
  3. Sixty-five miles per hour in other locations.
- C. The speed limits prescribed in this section may be altered as authorized in sections 28-702 and 28-703.
- D. The maximum speed provided in this section is reduced to the speed that is reasonable and prudent under the conditions and with regard to the actual and potential hazards then existing, including the following conditions:
1. Approaching and crossing an intersection or railroad crossing.
  2. Approaching and going around a curve.

3. Approaching a hillcrest.
  4. Traveling on a narrow or winding roadway.
  5. A special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
- E. A person shall not drive a motor vehicle at a speed that is less than the speed that is reasonable and prudent under existing conditions.

28-724. Overtaking on the right

- A. The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:
1. When the vehicle overtaken is making or about to make a left turn.
  2. On a street or highway with unobstructed pavement that is not occupied by parked vehicles and that is of sufficient width for two or more lines of moving vehicles in each direction.
  3. On a one-way street or on a roadway on which traffic is restricted to one direction of movement and if the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.
- B. The driver of a vehicle may overtake and pass another vehicle on the right only under conditions permitting the movement in safety. The driver shall not make the movement by driving off the pavement or main traveled portion of the roadway.

28-726. Limitations on driving to left of roadway center

- A. A person shall not drive a vehicle to the left side of the roadway under the following conditions:
1. When approaching the crest of a grade or on a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
  2. When approaching within one hundred feet of or traversing any intersection or railroad grade crossing or where appropriate signs or markings have been installed to define a no passing zone.
  3. When the view is obstructed on approaching within one hundred feet of any bridge, viaduct or tunnel.
- B. The limitations provided in this section do not apply on a one-way roadway.

28-775. Authorized emergency vehicles; approaching; following fire apparatus; defensive driving schools; driver license examinations

- A. Except when otherwise directed by a police officer, on the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting a red or red and blue light or lens visible under normal atmospheric conditions from a distance of five hundred feet to the front of the vehicle and that is giving an audible signal by siren, exhaust whistle or bell, the driver of another vehicle shall:
  - 1. Yield the right-of-way.
  - 2. Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection.
  - 3. Stop and remain in the position prescribed in paragraph 2 of this subsection until the authorized emergency vehicle has passed.
- B. An authorized emergency vehicle being operated with activated emergency lights and siren is exempt from the requirements of this section.
- C. The driver of a vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet or drive into or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.
- D. When a police vehicle is giving a visual signal with at least one lighted red or red and blue light or lens and is giving an audible signal by siren, the driver of another vehicle:
  - 1. Shall not approach or drive parallel to the police vehicle.
  - 2. Shall maintain a distance of at least three hundred feet behind any police vehicle involved in an emergency until the police vehicle moves to the lane closest to the right-hand edge or curb of the roadway.
- E. If a person who drives a vehicle approaches a stationary authorized emergency vehicle and the authorized emergency vehicle is giving a signal by displaying alternately flashing red or red and blue lights, the person shall do either of the following:
  - 1. If on a highway having at least four lanes with at least two lanes proceeding in the same direction as the approaching vehicle, proceed with due caution and if possible, with due regard to safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle.
  - 2. If changing lanes would be impossible or unsafe, proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions.

28-776. Funeral procession right-of-way; funeral escort vehicles; certification; fee; definition

- A. Pedestrians and the operators of all vehicles, except emergency vehicles, shall yield the right-of-way to each vehicle that is a part of a funeral procession being led by a funeral escort vehicle. The driver of the funeral escort vehicle may direct the drivers of other vehicles in the procession to proceed through any intersection or to make turns or other movements, and the other vehicles may continue to follow and make the turns or other movements as are made by or as directed by the driver of the funeral escort vehicle notwithstanding any traffic control device prescribed by statute or local ordinance, except that a driver of a vehicle in the funeral procession shall not exceed the posted speed limit and shall exercise reasonable and prudent care to avoid colliding with any other vehicle or pedestrian on the roadway. Each vehicle in a funeral procession shall have its headlights lighted.

28-792. Right-of-way at crosswalk

- A. Except as provided in section 28-793, subsection B, if traffic control signals are not in place or are not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be in order to yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is on the half of the roadway on which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. A pedestrian shall not suddenly leave any curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the driver to yield.
- B. If a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of another vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

28-793. Crossing at other than crosswalk

- A. A pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway.
- B. A pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles on the roadway.
- C. Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

28-794. Drivers to exercise due care

Notwithstanding the provisions of this chapter every driver of a vehicle shall:

1. Exercise due care to avoid colliding with any pedestrian on any roadway.
2. Give warning by sounding the horn when necessary.
3. Exercise proper precaution on observing a child or a confused or incapacitated person on a roadway.

28-797. School crossings; civil penalty; assessment; definition

- E. A vehicle approaching the crosswalk shall not proceed at a speed of more than fifteen miles per hour between the portable signs placed on the highway indicating "school in session" and "stop when children are in crosswalk".

28-854. Railroad grade crossing; moving heavy equipment; exception; definition

- A. A person shall not operate or move any heavy equipment on or across a track at a railroad grade crossing unless:
  - 1. Notice of the intended crossing is given to a station agent of the railroad.
  - 2. Before making the crossing, the person operating or moving the vehicle or equipment:
    - (a) Stops the vehicle or equipment at least fifteen feet but not more than fifty feet from the nearest rail of the railroad.
    - (b) While so stopped, listens and looks in both directions along the track for an approaching train and for signals indicating the approach of a train.
  - 3. Does not proceed until the crossing can be made safely.
- B. A person shall not make a crossing pursuant to this section when a warning is given by automatic signal, crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the flagman's direction.
- C. This section does not apply to the normal movement of farm equipment in the regular course of a farm operation.
- D. For the purposes of this section, "heavy equipment" means any crawler type tractor, steam shovel, derrick, roller or other equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches measured above the level surface of a roadway.

28-856. Emerging from alley, driveway or building

The driver of a vehicle emerging from an alley, driveway or building within a business or residence district shall:

- 1. Stop the vehicle immediately before driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway.
- 2. Yield the right-of-way to any pedestrian as necessary to avoid collision.

3. On entering the roadway, yield the right-of-way to all closely approaching vehicles on the roadway.

28-857. School bus signs; overtaking and passing school bus; violation; driver license suspension; civil penalty

- A. On meeting or overtaking from either direction a school bus that has stopped on the highway, the driver of a vehicle on a highway shall:
  1. Stop the vehicle before reaching the school bus, if the school bus is displaying the signal as provided in subsection D and if alternately flashing lights are in use.
  2. Not proceed until the school bus resumes motion or the signal and alternately flashing lights are no longer displayed.
- B. A bus used for the transportation of school children shall have on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height.
- C. A school bus operated on a highway shall cover or conceal all markings indicating "school bus" unless the bus is operated for the transportation of children to or from any of the following:
  1. School.
  2. School sponsored academic activities.
  3. School sponsored vocational and technological education.
  4. School sponsored athletic trips.
  5. School sponsored extracurricular activities.
- D. A bus used for the transportation of school children shall have a signal with the word "stop" printed on both sides in white letters not less than five inches high on a red background. The signal shall be an eighteen inch reflectorized octagon. The operator of the school bus shall:
  1. Manually operate the signal in a manner so that the signal is clearly visible from both front and rear when extended from the left of the body of the bus.
  2. Display the signal and alternately flashing lights if passengers are being received or discharged while the bus is stopped on the roadway.
- E. The driver of a vehicle on a highway with separate roadways need not stop on meeting or passing a school bus that is:
  1. On a different roadway.

2. On a controlled access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.
- F. For the purposes of subsection E, a lane or group of lanes on either side of a two-way left turn lane is not considered a separate roadway.
- G. A person who is responsible for a violation of subsection A of this section is subject to a civil penalty as follows:
1. The court shall impose a minimum civil penalty of two hundred fifty dollars for the first violation.
  2. If a person violates this section a second time within a period of thirty-six months, the court shall impose a minimum civil penalty of seven hundred fifty dollars and shall direct the department to suspend the driver license of the person for not more than six months.
  3. If a person violates this section three or more times within a period of thirty-six months, the court shall impose a minimum civil penalty of one thousand dollars and shall direct the department to suspend the driver license of the person for at least six months but not more than one year.

**28-857.01. Overtaking and passing school bus; report by school bus operator; notification letter**

- A. The operator of a school bus who observes a violation of section 28-857, subsection A may prepare a signed written report that indicates that a violation occurred. The report shall include:
1. The date, time and approximate location of the violation.
  2. The number and state of issuance of the license plate on the vehicle involved in the violation.
  3. Identification of the vehicle as an automobile, a station wagon, a truck, a bus, a motorcycle or any other type of vehicle.
  4. The color of the vehicle involved in the violation.
- B. Within two days after the violation occurs, excluding weekends and holidays, the school bus operator shall send a copy of the report to the director. On receiving the report, the director shall promptly mail a notification letter to the last known registered owner of the vehicle. The letter shall include:
1. A notification containing the information included in the bus operator's report and stating that a vehicle registered in the vehicle owner's name was observed passing a school bus loading and unloading children.
  2. A complete explanation of the provisions of section 28-857.

3. An explanation that the notification letter is not a police citation but is an effort to call attention to the seriousness of the incident.

28-909. Vehicle restraints required; exceptions; civil penalty

- A. Each front seat occupant of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall either:
  1. Have the lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
  2. If only a lap belt is installed where the occupant is sitting, have the lap belt properly adjusted and fastened while the vehicle is in motion.
- B. The operator of a motor vehicle that is designed for carrying ten or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations section 571.208 shall require each passenger under sixteen years of age to either:
  1. Have the lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
  2. If only a lap belt is installed where the passenger is sitting, have the lap belt properly adjusted and fastened while the vehicle is in motion.

28-1321. Implied consent; tests; refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; special ignition interlock restricted driver license

- A. A person who operates a motor vehicle in this state gives consent, subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph 33 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:
  1. While under the influence of intoxicating liquor or drugs.
  2. If the person is under twenty-one years of age, with spirituous liquor in the person's body.
- B. After an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section, and if the violator refuses the violator shall be informed that the violator's license or permit to drive will be suspended or denied for twelve months, or for two

years for a second or subsequent refusal within a period of eighty-four months, unless the violator expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal. The violator shall also be informed that if the test results show a blood or breath alcohol concentration of 0.08 or more, or if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days.

- C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph 33 or section 28-1381, 28-1382 or 28-1383.
- D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:
  - 1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant.
  - 2. The law enforcement officer directing the administration of the test shall:
    - (a) File a certified report of the refusal with the department.
    - (b) On behalf of the department, serve an order of suspension on the person that is effective fifteen days after the date the order is served.
    - (c) Require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.
    - (d) If the license or permit is not surrendered, state the reason why it is not surrendered.
    - (e) If a valid license or permit is surrendered, issue a temporary driving permit that is valid for fifteen days.
    - (f) Forward the certified report of refusal, a copy of the completed notice of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the notice of suspension.
- E. The certified report is subject to the penalty for perjury as prescribed by section 28-1561 and shall state all of the following:
  - 1. The officer's reasonable grounds to believe that the arrested person was driving or in actual physical control of a motor vehicle in this state either:
    - (a) While under the influence of intoxicating liquor or drugs.
    - (b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.
  - 2. The manner in which the person refused to submit to the test or tests.
  - 3. That the person was advised of the consequences of refusal.

- F. On receipt of the certified report of refusal and a copy of the order of suspension and on the effective date stated on the order, the department shall enter the order of suspension on its records unless a written request for a hearing as provided in this section has been filed by the accused person. If the department receives only the certified report of refusal, the department shall notify the person named in the report in writing sent by mail that:
1. Fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege.
  2. The department will provide an opportunity for a hearing if the person requests a hearing in writing and the request is received by the department within fifteen days after the notice is sent.
- G. The order of suspension issued by a law enforcement officer or the department under this section shall notify the person that:
1. The person may submit a written request for a hearing.
  2. The request for a hearing must be received by the department within fifteen days after the date of the notice or the order of suspension will become final.
  3. The affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege will be suspended for twelve months from that date or for two years from that date for a second or subsequent refusal within a period of eighty-four months.
- H. The order for suspension shall:
1. Be accompanied by printed forms that are ready to mail to the department and that may be filled out and signed by the person to indicate the person's desire for a hearing.
  2. Advise the person that unless the person has surrendered any driver license or permit issued by this state the person's hearing request will not be accepted, except that the person may certify pursuant to section 28-3170 that the license or permit is lost or destroyed.
- I. On the receipt of a request for a hearing, the department shall set the hearing within thirty days in the county in which the person named in the report resides unless the law enforcement agency filing the certified report of refusal pursuant to subsection D of this section requests at the time of its filing that the hearing be held in the county where the refusal occurred.
- J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue and retain a license or permit subject to this section.

- K. Hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the issues of whether:
1. A law enforcement officer had reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle in this state either:
    - (a) While under the influence of intoxicating liquor or drugs.
    - (b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.
  2. The person was placed under arrest.
  3. The person refused to submit to the test.
  4. The person was informed of the consequences of refusal.
- L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of twelve months after the order of suspension becomes effective or for a period of two years after the order of suspension becomes effective for a second or subsequent refusal within a period of eighty-four months.
- M. If the suspension order is sustained after the hearing, a motion for rehearing is not required. Within thirty days after a suspension order is sustained, the affected person may file a petition in the superior court to review the final order of suspension or denial by the department in the same manner provided in section 28-3317. The court shall hear the review of the final order of suspension or denial on an expedited basis.
- N. If the suspension or determination that there should be a denial of issuance is not sustained, the ruling is not admissible in and has no effect on any administrative, civil or criminal court proceeding.
- O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.
- P. After completing not less than ninety consecutive days of the period of suspension required by this section, a person whose driving privilege is suspended pursuant to this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401. Unless the certified ignition interlock period is extended by the department pursuant to section 28-1402, a person who is issued a special ignition interlock restricted driver license as provided in this subsection shall maintain a functioning certified ignition interlock device in compliance with this chapter during the remaining period of the suspension prescribed by this section. This subsection does

not apply to a person whose driving privilege is suspended for a second or subsequent refusal within a period of eighty-four months or a person who within a period of eighty-four months has been convicted of a second or subsequent violation of article 3 of this chapter or section 4-244, paragraph 33 or an act in another jurisdiction that if committed in this state would be a violation of article 3 of this chapter or section 4-244, paragraph 33.

28-1381. Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification

- A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state under any of the following circumstances:
1. While under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances if the person is impaired to the slightest degree.
  2. If the person has an alcohol concentration of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.
  3. While there is any drug defined in section 13-3401 or its metabolite in the person's body.
  4. If the vehicle is a commercial motor vehicle that requires a person to obtain a commercial driver license as defined in section 28-3001 and the person has an alcohol concentration of 0.04 or more.

28-1382. Driving or actual physical control while under the extreme influence of intoxicating liquor; trial by jury; sentencing; classification

(L07, Ch. 219, sec. 2)

- A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state if the person has an alcohol concentration of 0.15 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.
- B. A person who is convicted of a violation of this section is guilty of driving or being in actual physical control of a vehicle while under the extreme influence of intoxicating liquor.

28-3392. Defensive driving school; eligibility

- A. A court:
1. Shall allow an individual who is issued a citation for a civil traffic moving violation pursuant to chapter 3, articles 2, 3, 4 and 6 through 15 of this title or a local civil traffic ordinance relating to the same subject matter to attend a defensive driving school for the purposes provided in this article.

2. Except as prescribed in subsection C of this section, may allow an individual who is issued a citation for a violation of section 28-701.02 to attend a defensive driving school.
- B. A person who attends a defensive driving school pursuant to this article is not eligible to attend a defensive driving school again within twenty-four months from the day of the last violation for which the person was authorized by this article to attend a defensive driving school.
- C. Notwithstanding subsection A of this section:
1. An individual who commits a civil or criminal traffic violation resulting in death or serious physical injury is not eligible to attend a defensive driving school, except that the court may order the individual to attend a defensive driving school in addition to another sentence imposed by the court on an adjudication or admission of the traffic violation.
  2. If a commercial driver license holder is found guilty or responsible for a moving violation, the court may require the violator to attend defensive driving school as an element of sentence, but may not dismiss the conviction or finding of responsibility and shall report the conviction or finding of responsibility to the department as prescribed in section 28-1559. A commercial driver license holder is not eligible for the defensive driving diversion program.

**28-3395. Supreme court authority and duties; rules; record**

- B. The supreme court shall:
1. Supervise the use of defensive driving schools by the courts in this state.
  2. Make public the amount of the court diversion fee assessed by each court in this state pursuant to this article and the total cost to attend a defensive driving school in each court.
  3. Establish an automated statewide database for keeping a record of persons who attend a defensive driving school.
  4. Adopt rules that establish criteria for the certification of qualified defensive driving schools and instructors used by the courts.
  5. Establish procedures for courts and schools to remit reports that are required by the supreme court.
  6. Certify and monitor defensive driving schools and instructors that serve as a court authorized diversion program.
  7. Require that a defensive driving school class not exceed a total of four and one-half hours, including any testing, reviewing and grading related to the defensive driving school class.

**ALSO:**

**Arizona Driver License Manual (and Customer Service Guide)**

<http://www.azdot.gov/mvd/MenuFormsandPubs.asp>