



**ARIZONA SUPREME COURT
CERTIFICATION AND LICENSING DIVISION
DEFENSIVE DRIVING CERTIFICATION**

INFORMATION FOR PROSPECTIVE SCHOOLS

This information is provided to prospective defensive driving schools as a general orientation to the certification process, program operations and responsibilities of the applicant IF the applicant becomes a certified school. It is not a complete explanation of all program rules and policies. Each school is responsible for reading, understanding and complying with ALL program requirements contained in Arizona Revised Statutes and the Arizona Code for Judicial Administration (“ACJA”) §§ 7-201 and 7-205. The general rules and requirements for certification as a defensive driving school are found in § 7-201 and include rules for certification, initial and renewal and disciplinary actions. Rules and requirements specific to defensive driving schools and instructors are contained in § 7-205.

Certification

All schools and instructors who provide a defensive driving diversion course for the courts in Arizona must be certified by the Arizona Supreme Court. Instructors are certified only through certified schools or an applicant school. A school may not offer its services to any court or student with or for an Arizona citation unless the school has obtained Arizona Supreme Court certification.

Certification applications or answers to questions may be obtained from the program by a request through the program’s email address at: ddrive@courts.az.gov.

Beginning November 1, 2007, renewal cycles are two years in length, ending at midnight on October 31 of each odd-numbered year. Fees are non-refundable and not prorated. Renewal applications for each certification period are due on or before September 30 of each odd-numbered year. The September 30 deadline is required for division staff to process the renewal applications and have them considered for approval by the Defensive Driving Board.

The initial certification fee is \$1000 for schools if received by September 30, 2009. Schools are required to renew annually and fees range from \$150 to \$400 and are based on the number of student completions processed during the prior two fiscal years. Currently, there is no initial or renewal certification fee for instructors. However, a late fee of \$50 will be assessed should schools or instructors file a renewal application after the September 30 deadline. The current certification period ends on October 31, 2009, and certification will expire on this date regardless of the date a school was certified.

The certification process for a school applicant generally consists of the following:

- Division staff reviews all documents, including but not limited to, the application, affidavit of eligibility, completion certificate and course curriculum submitted from the applicant to ensure: (1) the applicant's compliance with all requirements and rules; (2) the applicant meets all minimum qualifications for certification; and (3) the applicant has the appropriate staff and business processes, including hardware and software, necessary for the continuous daily operation of the school.
- Demonstration of the applicant's course in its entirety, including all outlines, videos, handouts or other documents and revisions if required.
- Consideration by the Defensive Driving Board for approval of certification.
- Once certification has been approved by the Board, then connection to and training in the defensive driving database and its operations will be completed.

Once a new application is received, the process may take approximately 90 days or more to complete. The time for processing depends on the completeness and accuracy of the application. The Board may approve a request to extend the application review process should it take more than 90 days. School applications are processed in the order they are received; however, there could be any number of applications in process at any given time. Division staff follow standard procedures for the processing of all applications. Initial school certifications are extensive and complex in nature. Division staff will keep you informed of the progress of your application. Timely response by an applicant to any questions or requests for additional information from the division staff will help expedite the application process.

*Pursuant to § 7-205(E)(1)(d), all certified schools must have an office **in Arizona** through which its Arizona business is conducted. Schools must also maintain local staff and a local or toll-free telephone number. The school must maintain a manager-level employee within the state with contracting and supervisory authority for the school's operations. ALL of these requirements must be met before the school can be considered for certification.*

Third Party Contracts

Pursuant to § 7-205(E)(1)(f), certified schools may not conduct business through a third party without approval from division staff. Approval is limited to partial and specifically defined operations where the school contracts with a certified or non-certified third party. For example, a certified school may contract with certified instructors for instructor related services. Other examples include data entry, on-site testing, and software operational procedures. A certified school may use the services of another certified school to conduct certain functions or processes. In these cases, the primary school is held responsible for compliance with all requirements, and no contractual agreement between the two parties alters the responsibility for compliance with all program requirements. The second party is also responsible for compliance with all requirements.

Structure of the Program

Arizona's diversion program is court-based and operated with the proactive involvement of certified schools. Since 1989, the Arizona Supreme Court has had the authority to certify, monitor, audit and discipline the diversion program schools and instructors for the courts in Arizona. The Supreme Court's responsibility under A.R.S. ' 28-3395 is to adopt rules and establish criteria and procedures for the certification of qualified defensive driving schools and instructors offering courses as diversion for Arizona courts, and the operation of the program. These rules, criteria and procedures were initially established in 1989 and 1990 through the collaboration of the School Advisory Group, the Arizona Judicial Council's Committee on Defensive Driving, and Supreme Court staff. The Supreme Court adopted rules to govern the program in the Arizona Code of Judicial Administration (ACJA) §§ 7-201 and 7-205. In 2001, the original format of the rules, criteria and procedures was changed and rewritten into sections of the Arizona Code of Judicial Administration, General Rule 1 and then ' 7-201: General Requirements and ' 7-205: Defensive Driving. General Rule 1 was in effect through December 2003, when ' 7-201 was adopted and placed into effect on January 1, 2004, and amended on January 1, 2007. ACJA ' 7-205 took effect on March 1, 2001, and was amended on November 19, 2002, and January 1, 2007.

ACJA § 7-201 sets forth the general rules for certification and ACJA § 7-205 contains the specific requirements for schools and instructors. § 7-205 also establishes the requirements for the role of the courts. Any school or instructor failing to comply with the requirements of ACJA §§ 7-201 or 205 may be disciplined according to program rules. Schools are responsible for understanding and complying with all requirements.

When a person receives a civil traffic moving violation from a law officer in Arizona, it is normally received with a bond card or envelope containing information about the options available for disposition of the violation. One of the options is diversion and dismissal through attendance at a defensive driving course. A person is eligible to attend a diversion class if they received a civil traffic moving violation contained in specified chapters of Arizona's Revised Statutes, Title 28, provided: (1) they have not attended a class for a citation issued within 24 months of the date the new violation was issued; (2) the citation is not the result of a collision which killed or seriously injured any person (including the cited person); or (3) they do not possess a Commercial Driver License (CDL). The right to attend a diversion course is conferred by Arizona law (see Arizona Revised Statutes ' 28-3391 to 3399).

If a person chooses the defensive driving course option, they are directed to call either the primary provider school (if one or more exist for a court), or if no primary provider exists, any certified defensive driving school. The school determines the eligibility status of the person through connection to the defensive driving database, a statewide database of all students who have completed a course. A person may then be registered for a course if he/she is eligible and there is sufficient time to complete a defensive driving course within the time allowed by the court. Before attendance begins at a traditional school or starting an alternative delivery method course, a school must collect all fees due from the student, and have the student sign an Aeligibility affidavit.@ The

registration personnel at a classroom site must verify the student's identity against an official ID card (usually the driver license); AND verify the registration data the student has provided is accurate through comparison of the citation and driver license to the classroom roster prepared from registration data. Citations and court orders must be collected and retained by the school.

The school must ensure a positive identity of each person and all attendance requirements are met. Receipts must be provided to students for fees at the time of payment. Completion certificates shall be provided at the end of the class.

After completion of each classroom course, school staff reconciles the roster for no shows or incompletes. Student data must be reported to the defensive driving database within three business days of each course. Data entry errors must be corrected within five days of discovery of the error. These functions are performed by schools and are outlined in § 7-205. Schools must provide court reports to each court and to the Supreme Court with fee payments on a set schedule (see below).

Three fees are collected by the school from each student: (1) a school fee which the school retains for the service rendered; (2) a court diversion fee, amounts varying by the court; and (3) a state fee, or supreme court fee. Court diversion fees, as with fines, are forwarded to either the city or the county general fund, depending upon which entity issued the citation. The court diversion fee is collected in lieu of a fine, and therefore, a traffic violator cannot be required to pay both the court diversion fee and the fine. Schools must disburse the court diversion and state fees as stated in ACJA § 7-205. Once received from a school, the court distributes the court diversion fee to either the city or county general fund, depending upon the jurisdiction. The state fee is mailed to the Arizona Supreme Court for deposit in accounts specified by statute (see Arizona Revised Statutes § 12-114, 28-3397 and 3398). Strict accounting standards are required of schools in handling these public monies, again outlined in ACJA § 7-205. Reports and fees are submitted by schools on the schedules set in § 7-205.

The court dismisses one eligible violation on receipt of the completion information and fee for the student. In most cases, the student is not required to follow up with the court. Students are advised to retain their completion certificates and receipts for payment in case errors occur.

Court Orders

Pursuant to § 7-205(D)(5)(c)(7), courts may also order individual students to complete a defensive driving course when they are not otherwise eligible. In such cases, the school must receive a written court order with judge's signature BEFORE the student is allowed to complete a class. Schools must retain the court orders. Verbal authorizations are not permitted.

A court shall note on the court order if a person is fined for a violation. Where no fine is noted, the school shall collect the court's diversion fee from the person attending a course. Courts cannot order an ineligible student to attend a defensive driving class for dismissal of a violation. The student's citation is not permitted to be dismissed, but the class attendance becomes an element of the person's sentence upon a finding of responsible or guilty.

Primary Providers

Many courts in Arizona, especially large ones, contract with one or more certified schools to process ALL student completions for a court. By using a primary provider, a court can request and obtain special services from its provider school which may not be available otherwise. In these courts, students must attend the primary provider school unless they have obtained permission from the court for attendance at another school. Primary provider contracts are obtained through a competitive bid process usually called a Request for Proposals (RFP), wherein the requirements of a court for a provider are specified. Schools must directly contact municipal or limited jurisdiction courts to obtain RFP consideration. The other option for courts have is to allow Aopen enrollment. @

Note: Effective January 1, 2009, while courts may elect to continue to have primary provider contracts, a new Arizona law requires courts to permit attendance by students at any certified defensive driving school which meets the courts' reporting requirements.

Open Enrollment

Open enrollment means a court shall accept student completions from any certified school. No special requirements are permitted, except courts can restrict operations in general ways, such as specifying students may not be taught by police officers, or students must complete the course a certain number of days before the court date, etc., as long as the information is provided to the defensive driving program for directory publication and applies to all certified schools. Schools are responsible to comply with legal court requests and courts can exclude specific schools from completing their students if the court finds the school has not complied with court requirements.

Defensive Driving Database

The defensive driving database is maintained by the Arizona Supreme Court. Student records are entered by schools through a dial-up process. Limited jurisdiction courts do not have access to the defensive driving database. The information in the database is not public information pursuant to statute and schools are required to maintain the confidentiality of all student records. Student eligibility is checked by the school using the defensive driving database. Schools are responsible for providing the equipment necessary to connect to the system and for its maintenance. Monthly reports are provided to courts from the database, for reconciliation with the reports sent to them by schools.

Schools are held to a high standard of accuracy in data entry. Excessive or continual error rates may result in disciplinary action up to and including revocation of certification.

Court Reports

Schools report student completions and pay fees to each court on the schedule required by each court. The state fees and a summary report are due to the Arizona Supreme Court twice each month on the schedule required in § 7-205(F)(22)(e). Student data is entered electronically on the database within three business days after the course is completed pursuant to § 7-205(F)(21)(f). Courts may require other reports from schools, based on their own specific case processing requirements.

Relationship to the Arizona Motor Vehicle Division

Upon adjudication of a citation, a court normally forwards an abstract to the Arizona Motor Vehicle Division (MVD). In cases where an eligible person has completed a defensive driving course, MVD is not permitted to include a record for the violation dismissed on the person's motor vehicle record. In most cases, an abstract is not sent by the court to MVD for dismissed citations.

Fee Payments

Schools may collect student fees ahead of the course date, or at the class site prior to class start time. Schools are responsible to pay the diversion and state fees for each student who begins a class. If a prepaid student does NOT begin a class, the school shall refund ALL prepaid fees. The school may not retain a processing fee. If prepayments are accepted, or if a student who pays at a classroom site does not complete the course the same day, the school may need to pay the fee and enter a state fee record on the database. In every case where the fee is paid in one period, but the student does not complete until the next period (or any subsequent period), the school must enter a state fee record on the database and pay the student's fee to the Arizona Supreme Court with the payments for the period in which the fee was collected. Special requirements exist to identify these prepaid fees on the monthly reports the school must submit [see accounting standards addressed in § 7-205(F)(21)].

Refunds

Pursuant to ACJA § 7-205(F)(24)(a), schools may not refund state fees for any student who begins a class unless written authorization is obtained first from the division staff. There are a few circumstances where refunds may be authorized, but these are limited to the reasons pursuant to and described in ACJA § 7-205(F)(24).

Student Eligibility

Schools are responsible for ensuring the eligibility of the student and of the violation code. Refunds are not authorized for school errors; however, the school may be required to make a refund to the student in such cases and pay the state fee themselves. Ineligible students (except in the case of legitimate court orders) shall not be admitted to class. In cases where a student has given inaccurate data resulting in ineligible attendance, the student's fees are not refunded. Ineligible attendances are always reported to the supreme court and the database, as well as the jurisdictional court.

Instructor Certification

Instructors must be certified before they can teach defensive driving courses or serve as an alternative delivery method instructor. In order to be eligible for renewal, they must attend and complete required continuing education each year and teach a minimum number of classes. The initial requirements, qualifications and training process for instructors are contained in § 7-205(E)(2).

Monitoring

Division staff monitor schools and classes regularly and continually, both publicly and undercover to ensure compliance with all administrative and curriculum standards. Instructors and schools are evaluated for adherence to program standards, rules and their approved curriculum. Compliance is the primary responsibility of the school and any noncompliance by the school or an instructor may result in disciplinary action against the school or instructor, for actions by staff and/or instructors. Each instructor is evaluated a minimum of once each year. Instructors who do not present adequate classes may have disciplinary actions taken against them up to and including revocation of their certificate.

Out-of-State Attendance

Motorists from other states who receive citations in Arizona may be permitted by a court to attend a course in their home state which must meet the general requirements of Arizona's program. These attendances are coordinated by the Arizona schools, including checking the students' eligibility, processing the students' registration, reporting and entering the required records and collection and disbursement of all fees. Please refer to ACJA § 7-205(F)(20) for out-of-state attendance regulations.

Out-of-State Citations

When a person receives an out-of-state citation, they may attend an Arizona course with the permission of the out-of-state court. However, in these cases, Arizona schools are not responsible for communication with the out-of-state courts. The student bears the responsibility to comply with the other state's rules. The student's record is entered on the defensive driving database; however, the school collects its own fee and the state fee. No court diversion fee is collected. An out-of-state citation has no bearing on eligibility for an Arizona ticket and is entered with specific codes to ensure the student's Arizona eligibility is not impacted.

Volunteer Attendance

Arizona courts may not opt out of the Arizona Supreme Court's program. All attendances resulting from citations or court orders fall under the statutory authority to administer the program. However, students often attend a defensive driving course for their own purposes, such as insurance discounts or education for young drivers. If the attendance has no connection to a court action or citation, but is solely for personal purposes, a school may register them as a *Avolunteer*.@ A volunteer may not

use the attendance for a later citation, even if it is a single day later. No fees are collected for the state or court and the record is not entered on the database.

One Attendance, One Violation, One Completion Certificate

An attendance may only result in one violation dismissal, whether the violations exist on one citation, or more than one citation, or even if the second citation is an out-of-state citation. The rule is "One attendance, one violation, one completion certificate." No exceptions. For example, if a student attends a class for an Arizona ticket, and then receives a California ticket, the student must attend a separate course for each ticket and pay all fees associated with each course.

Alternative Delivery Method (ADM) Formats

Alternative delivery method formats are eligible for certification consideration pursuant to ACJA § 7-205. Alternative formats must meet ALL standards and requirements for certification and in particular the requirements for student identity and data verification. Course time requirements must be met by all formats. Applicant schools which do not comply with all standards shall not be certified.

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