

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 7: Administrative Office of the Courts**  
**Chapter 2: Certification and Licensing Programs**  
**Section 7-204: Private Process Server**

**A. Definitions.** The following definitions apply:

“Accredited” means placement on a list of nationally recognized authorizing agencies the United States Secretary of Education determines to be reliable authorities as to the quality of education or training provided by the institutions of higher education, and the higher education programs they sanction.

“Active” means a valid and existing certificate to practice as a certified process server.

“Advisory letter” means written communication notifying a certificate holder that conduct, while not warranting discipline, may result in future disciplinary action if not modified or eliminated. An advisory letter is not a disciplinary action.

“Applicant” means a person who has submitted a completed application and all required application and fingerprint processing fees.

“Censure” means a written formal discipline sanction, finding a certificate holder has violated one or more provisions of the statutes, court rules, or this code section.

“Certificate holder” means any entity or individual granted and currently holding valid certification ~~pursuant to~~ under statutes, court rules, and this code section.

“Certification” means a certificate issued by the presiding judge once an applicant meets all the requirements of a private process server, ~~pursuant to~~ under statutes, court rules, and this code section.

“Clerk” means the elected clerk of the Arizona Superior Court in each county.

“Complainant” means a person or organization that initially files a complaint regarding the conduct of a private process server. The complainant is not a party to the proceeding.

“Community college” means an accredited educational institution providing training in the arts, sciences, and humanities beyond the twelfth grade of the public or private high school course of study or vocational education, including terminal courses of a technical and vocational nature and basic education courses.

“Consent agreement” means a written statement resolving a certification or complaint matter, voluntarily signed by the applicant or certificate holder.

“Director” means the administrative director of the courts, or the director’s designee.

“Division director” means the director of the certification and licensing division of the Administrative Office of the Courts or the division director’s designee.

“Division staff” means all members of the certification and licensing division of the Administrative Office of the Courts, including the division director.

“Disciplinary action” means either informal or formal proceedings against a certificate holder after a finding of probable cause that the certificate holder has committed acts of misconduct or violations of statutes, court rules, or this code section.

“Dismissed with prejudice” means final disposition barring future action under this section on the same issue, claim, or cause.

“Dismissed without prejudice” means final disposition with the right to bring future action under this section on the same issue, claim, or cause.

“Expired” means the certificate has lapsed on a specified date.

“Filing” or “filed” means a document has been received and date-stamped by the clerk.

“Formal statement of charges” means the document setting forth specific acts of misconduct by a certified private process server of statutes, court rules, or this code section, including any amendments approved by the court, ~~upon~~ on a determination of probable cause.

“Formal disciplinary proceedings” means the process initiated ~~upon~~ on a determination of probable cause the alleged acts of misconduct or violations of the statutes, court rules, or this code section by a certified process server that, if true, would warrant a censure, consent agreement, or other negotiated settlement, restrictions, probation, additional training, a cease and desist order, suspension, or revocation of certification ~~pursuant to~~ under subsection (H).

“Government employee process server” means an individual who, in the normal scope of the individual’s responsibilities as a government employee, serves process for the governmental agency that employs the individual.

“Inactive” means a certified private process server who voluntarily decides not to practice in the specified profession or occupation for a specified period of time and who is not the subject of any pending disciplinary action.

“Informal disciplinary proceedings” means the process initiated ~~upon~~ on a determination of probable cause the alleged acts of misconduct or violations of the statutes, court rules, or this code section by a certificate holder that, if true, would warrant a letter of concern, ~~pursuant to~~ under subsection (H).

“Injury” means harm to a client, customer, the public, judicial or legal system, or the profession or occupation resulting from a certificate holder’s misconduct.

“Knowledge” is the conscious awareness of the nature or attendant circumstances of the conduct, but without the conscious objective or purpose to accomplish a particular result.

“Letter of concern” means a written informal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or this code section.

“Minimum competencies” means having the required skills for an adequate level of performance.

“Presiding judge” means the presiding judge of the superior court in the county or the presiding judge’s designee.

“Probable cause” means reasonable grounds for belief in the existence of facts concerning alleged acts of misconduct or violations by a certificate holder that warrant informal or formal discipline against the certificate holder.

“Probation” means a written formal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or this code section, but allowing the certificate holder to practice as a process server under specified conditions for a set period of time.

“Private process server” means a person, certified pursuant to under the requirements in A.R.S. § 12-3301, this code section, and any other applicable statute or rule. As defined by A.R.S. § 12-3301, a private process server:

[M]ay serve all process, writs, orders, pleadings or papers that are required or permitted by law to be served before, during or independently of a court action, including all such as are required or permitted to be served by a sheriff or constable pursuant to section 11-441, subsection A, paragraphs 6 and 7, section 11-447 and section 11-448, except writs or orders requiring the service officer to sell, deliver or take into the officer’s custody persons or property, or as may otherwise be limited by supreme court rule. A private process server is an officer of the court.

“Professional regulatory entity” means a government or private unit associated with and having authority over a group of qualified and practiced individuals in a profession or occupation.

“Revoked” or “revocation” means a written formal discipline sanction, finding a certificate holder has violated one or more provisions of the statutes, court rules, or this code section and the certificate to practice as a process server is rescinded.

“Sanction” means an explicit and official action resulting from an informal or formal disciplinary action finding a certificate holder has violated or failed to comply with one or more of the statutes, court rules, this code section, or court orders relevant to the certificate holder’s profession or occupation.

“Section” means the referenced provision of Arizona Code of Judicial Administration § 7-204.

“Suspended” or “suspension” means a written formal discipline sanction finding a certificate holder has violated one or more provisions of the statutes, court rules, or this code section and the private process server’s certificate is not revoked, but the certificate holder is not permitted to exercise the privileges of the certificate for a set period of time as the result of a final order of a disciplinary action.

“Valid” means a certificate issued by the presiding judge that is currently in effect and not expired, surrendered, suspended, or revoked.

“Voluntary surrender” means a certificate holder decides to discontinue practice as a process server and returns the certificate to the presiding judge for review and acceptance ~~pursuant to~~ under subsection (E).

**B. Applicability.** This code section applies to the certification of process servers ~~pursuant to~~ under A.R.S. § 12-3301 and the Arizona Rules of Civil Procedure. This code section applies to the application, certification, and discipline of all private process servers in the State of Arizona. This code section governs private process server certification separately and without reference to Arizona Code of Judicial Administration § 7-201: General Provisions.

**C. Purpose.** For eligibility to act as a private process server in Arizona, a person ~~shall~~ must obtain certification and comply with the requirements of A.R.S. § 12-3301, the Arizona Rules of Civil Procedure, administrative orders, and this code section as adopted by the Arizona Supreme Court to govern private process servers. Certified private process servers may serve all process, writs, orders, pleadings, or papers that are required or permitted by law for service before, during, or independent of a court action, including all documents required or permitted for service by a sheriff or constable ~~pursuant to~~ under section 11-441, subsection A, paragraphs 6 and 7, section 11-447 and section 11-448, except writs or orders requiring the service officer to sell, deliver, or take into custody persons or property, or as otherwise limited by this code section. ~~Pursuant to~~ Under Arizona Rules of Civil Procedure 4(e), a certified “private process server” is “entitled to serve in that capacity for any state court within Arizona.”

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

1. Role and Responsibilities of the Supreme Court. ~~Pursuant to~~ Under A.R.S. § 12-3301 and Rule 4(e), Arizona Rules of Civil Procedure, the supreme court is responsible for administration of the private process server program and ~~shall~~ must adopt rules for administration of the program.
2. Role and Responsibilities of the Director. The director as designated by the Az. Const. Art. 6 § 7 ~~shall~~ must:
  - a. Approve or disapprove matters of administration of the Private Process Server Program that involve the expenditure of program funds;
  - b. Appoint and supervise all division staff;

- c. Adopt policies and procedures, including forms, for administration of the Private Process Server Program; and
  - d. Ensure implementation of the applicable laws, court rules, and this code section.
3. Role and Responsibilities of Division Staff.
- a. The director ~~shall~~ may designate the division director and other division staff to assist in the administration of the Private Process Server Program in compliance with the law, Arizona Rules of Court, Arizona Supreme Court administrative orders, and this code section. The division director may delegate any duties and responsibilities to division staff.
  - b. Division staff ~~shall~~ must:
    - (1) Perform tasks of administration of the Private Process Server Program to assist in the decentralized administration of the program in each county in Arizona;
    - (2) Provide updates to the clerk;
    - (3) Make recommendations regarding matters pertaining to certification, complaints, and investigations; and ~~all~~ other matters relevant to certified private process servers;
    - (4) Maintain a list of certified process servers and post this list on the judicial department website. The judicial department website ~~shall~~ must include each certificate holder's name, certificate number, county of certification, and any disciplinary action imposed against a certified process server. At a minimum, division staff ~~shall~~ must update this list each quarter;
    - (5) Refer any complaint received regarding the actions of a certified process server to the clerk of the county where the alleged violation took place, ~~pursuant to~~ under subsection H.
  - c. Division staff may:
    - (1) Charge for the costs of providing copies of the certification list or any other public records of the program; and
    - (2) Refer complaints to another state agency or entity with jurisdiction, if the supreme court or superior court does not have jurisdiction over the complaint.
4. Role and Responsibilities of the Clerks of the Superior Court.
- a. The clerk ~~shall~~ must:
    - (1) Distribute application materials, using the application forms provided by the director, and accept applications and fee payments for initial and renewal of certifications;
    - (2) Administer and grade the examination for initial certification;
    - (3) Process the application materials, including fee payments and fingerprints, and forward the application materials to the presiding judge;

- (4) Issue initial and renewal certificates to qualified individuals, ~~upon~~ on approval by the presiding judge;
  - (5) Process photographs and issue an identification card to individuals granted certification by the presiding judge;
  - (6) Maintain records pertaining to applicants for certification and certified process servers, including:
    - (a) A current list or register of all certified process servers, in a format provided by the director, and as required ~~pursuant to~~ under Rule 4(e), Arizona Rules of Civil Procedure;
    - (b) Certificates issued or denied;
    - (c) Contact information on certified process servers, including address and phone number and any changes to the contact information;
    - (d) Renewal certificates granted or denied;
    - (e) Complaints, investigations, and final decisions regarding complaints;
  - (7) Provide process server records maintained by the clerk to the clerk in another county, a presiding judge, or a presiding judge's designee as necessary to process a complaint or discipline under subsection (H); and
  - (78) Provide the following information to division staff:
    - (a) A report, at least each quarter, on all additions, deletions, and revisions to the certification list, including certificates issued, certificates denied, and changes of address;
    - (b) A report, at least each quarter, listing all complaints, investigations pending completion, informal and formal disciplinary proceedings, and final decisions regarding discipline. If a final decision regarding discipline of a certified private process server results in suspension or revocation of a certificate, the clerk ~~shall~~ must provide the information to division staff within five days of the final order; and
    - (c) An annual report naming the staff assigned responsibility for administering the private process server program in the county along with a current address, phone number, and e-mail address of each staff member.
- b. The clerk may:
- (1) Assign any duties and responsibilities to staff; and
  - (2) Coordinate with clerks in other counties for the provisions of services ~~pursuant to~~ under this code section, including processing of identification cards and administration of the examination for initial certification.
5. Role and Responsibilities of the Presiding Judges of the Superior Court. The presiding judge:
- a. ~~Shall~~ Must:
- (1) Review all application materials, including criminal history information, and make all final decisions regarding the granting or denial of applications for initial and renewal of certification in the county of residence of the applicant;

- (2) Review and make all final decisions regarding any other certification issues including granting or denying reexamination for an applicant who has previously failed the initial certification examination; and
  - (3) Receive complaints ~~pursuant to~~ under subsection H and investigate, initiate, and adjudicate disciplinary proceedings.
- b. May vest in another judicial officer the authority to exercise or discharge any power, duty, or function originally vested in the presiding judge, whether ministerial or discretionary. The designated person ~~shall~~ must exercise these powers while acting in the presiding judge's name and by delegated authority.

**E. Initial Certification.**

1. Exemptions from Certification. The following persons are exempt from the certification requirements:
  - a. Any person specially appointed by the court ~~pursuant to~~ under Rule 4(d), Arizona Rules of Civil Procedure;
  - b. Any party to an action or that party's attorney serving process ~~pursuant to~~ under Rule 4(d), Arizona Rules of Civil Procedure, and
  - c. Any person serving a subpoena ~~pursuant to~~ under Rule 45, Arizona Rules of Civil Procedure.
2. Application for Initial Certification. An applicant for initial certification ~~shall~~ must apply for initial certification on approved forms and meet the eligibility requirements and fulfill all the requirements of subsection E(2)(a).
  - a. Eligibility for Initial Certification. The applicant ~~shall~~ must:
    - (1) Be at least twenty-one years of age;
    - (2) Be a citizen or legal resident of the United States; and
    - (3) Possess a high school diploma or a general equivalency diploma evidencing the passing of the general education development test;
  - b. Government Employee Process Servers.
    - (1) An individual who serves process entirely within the scope of the individual's responsibility as a government employee ~~shall~~ must apply for certification, ~~and demonstrate the ability to pass the examination,~~ and meet certification criteria. As provided in A.R.S. § 12-3301, a government employee ~~shall~~ must submit a completed fingerprint card and pay the applicable fees ~~pursuant to~~ under subsection E(2)(c)(3). Government employee process servers are not subject to any fees other than the fingerprint fee.
    - (2) A government employee process server may carry any employer-issued

identification that accurately identifies the employee as a government employee process server in addition to the identification card issued by the clerk pursuant to ~~under~~ subsection E(4)(a).

- (3) Government employee process servers who serve process in any capacity outside the scope of employment as a government employee process server shall ~~shall~~ must obtain certification pursuant to this code section and shall ~~shall~~ must follow all policies that apply to private process servers when serving process outside the scope of employment as a government employee process server.

c. Requirements for Initial Certification. An applicant shall ~~shall~~ must:

- (1) Provide a completed application for certification in an approved format obtained from and filed with the clerk in the applicant's county of residence. A non-Arizona resident may apply for certification in any county. To comply with A.R.S. § 41-1080, the applicant shall ~~shall~~ must submit documentation of U.S. citizenship or alien status with the application.
- (2) Pass an examination for initial certification, as prescribed in subsection E(3);
- (3) ~~Applicants for certification must submit~~ Submit a full set of fingerprints with the fee prescribed in A.R.S. § 41-1750 to the supreme court for the purpose of obtaining a state and federal criminal records check under A.R.S. § 41-1750 and Public Law 92-544. If definitive fingerprints are not obtainable, the clerk must require the applicant to make a written statement, under oath, that the applicant has no prior arrests, charges, indictments, or felony or misdemeanor convictions other than as disclosed on the application. If the applicant is unable to provide this statement, the clerk must refuse to accept the application. Pursuant to A.R.S. § 12-3301:

~~[F]urnish a full set of fingerprints to enable a criminal background investigation to be conducted to determine the suitability of the applicant. The completed applicant fingerprint card shall be submitted with the fee prescribed in section § 41-1750 to the department of public safety. The applicant shall bear the cost of obtaining the applicant's criminal history record information. The cost may not exceed the actual cost of obtaining the applicant's criminal history record information. Applicant criminal history records checks shall be conducted pursuant to section 41-1750 and Public Law 92-544.~~

- ~~(a) The applicant is responsible for providing the clerk with readable fingerprints. The applicant shall pay all costs or fees attributable to any subsequent refingerprinting and resubmission of fingerprints due to unreadable prints. A law enforcement agency shall perform the fingerprinting;~~
- ~~(b) The clerk shall submit completed applicant fingerprints and the fees to the Arizona Department of Public Safety (ADPS). Pursuant to A.R.S. § 12-3301, "The department of public safety may exchange the submitted applicant fingerprint card information with the federal bureau of investigation for a federal criminal records check";~~
- ~~(c) If definitive fingerprints are not obtainable, the clerk shall require the applicant to make a written statement, under oath, that the applicant has no prior arrests, charges, indictments, or felony or misdemeanor convictions other than as~~

~~disclosed on the application. If the applicant is unable to provide this statement, the clerk shall refuse to accept the application;~~

- (4) Provide additional background information, ~~upon~~ on the request of the presiding judge, clerk, or designee;
- (5) Pay all fees authorized by law to the clerk ~~pursuant to~~ under A.R.S. § 12-284; and
- (6) Together with the application, provide provide one color passport-size photograph, two inches by two inches, of the applicant's head, neck, and shoulders only. The applicant must ensure the photograph was taken within the last two years and clearly identifies the applicant. An application submitted without a photograph is deficient. photographs of a number and in the format prescribed in policies adopted by the director.

### 3. Examination.

- a. Initial Certification State Examination. All applicants must pass the initial certification examination of the rules of the Supreme Court of Arizona and the statutes of this state relating to certified private process servers. Each applicant for certification shall take and pass the initial certification state examination provided by the director. The clerk shall administer the initial certification state examination to each applicant.
- b. The director must provide multiple versions of the initial certification state examination to the clerk and the clerk may not use any other examinations. Applicants and the public may not obtain copies of the examination or the answer sheet.
- c. The director must establish the passing score on the initial certification state examination.
- ~~b~~d. The clerk ~~shall~~ must communicate the applicant's passage or failure of the examination in writing to the applicant not more than ten days from the date the applicant took the examination:
  - (1) The applicant will not receive the examination score.
  - (2) If the applicant fails the examination, the clerk ~~shall~~ must inform the applicant that a reexamination is required to meet all qualifications for initial certification and ~~shall~~ must provide the applicant with information on the procedures for reexamination.
  - (3) An applicant may, on written request, review the applicant's answer sheets and grades under the terms and conditions prescribed by the director.
  - (4) The applicant ~~shall~~ must not copy materials provided for the applicant's review.
  - (5) The applicant ~~shall~~ must conduct the review during business hours in the presence of the clerk.
- ~~e~~e. Reexamination. ~~If the~~ Any applicant who fails to pass the initial certification state examination on the first attempt, ~~the applicant~~ may retake the examination one time under the following conditions:
  - (1) The applicant is not otherwise disqualified from retaking the examination;
  - (2) The applicant takes the reexamination within 90 days of the date of filing the

application;

- (3) The applicant is provided and ~~shall~~ must take a different examination than the one the applicant took for the initial reexamination;
  - (4) If the applicant fails the reexamination, the applicant ~~shall~~ must wait 90 days from the date of reexamination to submit a written request for an additional reexamination under the following conditions:
    - (a) The applicant ~~may~~ must submit a request in writing addressed to the presiding judge requesting consideration for an opportunity to reapply and sit for the initial certification state examination for a third time;
    - (b) Proof of attendance and satisfactory completion for a course of study specific to the private process server profession ~~shall~~ must accompany the written request to assist in demonstrating the circumstances and reasons for believing the applicant now possesses the knowledge of the minimum competencies as a private process server to pass the examination; and
    - (c) If the presiding judge grants approval for the applicant to take the examination for a third time, the entire application process begins again, including the payment of fees. A presiding judge's decision to deny the applicant's request to sit for a third examination must be in writing, is final, and there is no right to a hearing. If the applicant's request to sit for a third examination is denied, the applicant may not file a new application until twelve months after the presiding judge's decision to deny.
- ~~d. The director shall provide multiple versions of the initial certification state examination to the clerk and the clerk may not use any other examinations. Applicants and the public may not obtain copies of the examination or the answer sheet.~~
  - ~~e. The director shall establish the passing score on the initial certification state examination.~~
  - f. An applicant is disqualified from taking any future examination if the presiding judge, based ~~upon~~ on information ~~forwarded~~ provided to the presiding judge by the clerk, determines the applicant engaged in fraud, dishonesty, or corruption while taking the examination or any subsequent examination.
4. Decision Granting Certification.
- a. If the presiding judge is satisfied that an applicant meets the qualifications for certification, the clerk, ~~upon~~ on order of the judge, ~~shall~~ must promptly issue an identification card to an applicant qualified for certification in accordance with this code section. ~~Pursuant to~~ Under Rule 4(e), Arizona Rules of Civil Procedure:

Upon approval of the court or presiding judge of the county in which the application is filed, the clerk will register the person as a certified private process server, which will remain in effect unless and until the certification is withdrawn by the court. The clerk must maintain a register for this purpose. A certified private process server will be entitled to serve in that capacity for any state court within Arizona.

- b. Certification. ~~Upon~~ On receipt of the state and national criminal history records checks, ~~pursuant to under~~ A.R.S. §§ 41-1750 and -1758, and applicable federal laws, the presiding judge ~~shall~~ must consider the information and grant or deny certification. Before granting certification, the presiding judge may require additional background information reasonably necessary to determine if the applicant meets the qualifications specified in this code section. For good cause shown, the presiding judge may grant certification to an applicant pending receipt of the national criminal history record checks, if there is a delay in the processing of the criminal history checks that is beyond the control of the applicant or the court.
  - c. The presiding judge may transfer the certification of an individual to the county of residence or another county if appropriate.
  - d. Certificate Status. All certificates are valid until expired, surrendered, suspended, or revoked.
5. Denial of Initial Certification. ~~The presiding judge:~~
- a. ~~Shall deny~~ Certification of the applicant must be denied if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in subsection (E) or has not submitted a complete application with all deficiencies corrected, with the applicable documents and fees.
  - b. The presiding judge may refuse to certify an applicant if one or more of the following is found:
    - (1) Material misrepresentation, omission, fraud, dishonesty, or corruption on the part of the applicant in the application for, or attempt to obtain, certification, including the examination;
    - (2) A record of any act constituting material misrepresentation, omission, dishonesty, corruption, or fraud on the part of the applicant in business or financial matters;
    - (3) A record of conduct showing the applicant is incompetent or a source of injury and loss to the public;
    - (4) A record of conviction by final judgment of a misdemeanor or felony, if the crime has a reasonable relationship to the practice of the private process server profession or occupation, regardless of whether civil rights have been restored. ~~Pursuant to Under~~ A.R.S. § 13-904(E), if the person's civil rights have been restored and there is no reasonable relationship to the practice of the private process server profession or occupation, the presiding judge ~~shall~~ must not deny certification solely based on the record of conviction;
    - (5) A record of denial, revocation, suspension, or any disciplinary action of any professional or occupational license or certificate of the applicant by any federal, state, or local government or regulatory entity thereof. The judge ~~shall~~ must consider whether the underlying conduct in any other disciplinary action is relevant to certification as a private process server;
    - (6) A record of a termination, suspension, probation, or any other disciplinary action

regarding past employment if the underlying conduct is relevant to certification as a private process server;

- (7) The applicant has been found civilly liable by final judgment in an action involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion;
  - (8) The applicant is currently on probation or parole or named in an outstanding arrest warrant;
  - (9) The applicant has violated any Arizona law, Arizona Rules of Court, this code section, or court orders governing private process servers;
  - (10) The applicant has violated any decision, order, or rule issued by a professional regulatory entity;
  - (11) The applicant has violated any order of a court, judicial officer, or administrative tribunal;
  - (12) The applicant has made a false or misleading statement or verification in support of an application for a certificate filed by another person;
  - (13) The applicant has made a false or misleading oral or written statement to judicial officers, judicial staff, or division staff;
  - (14) The applicant failed to disclose information on the certification application subsequently revealed through the background check; or
  - (15) The applicant failed to respond or furnish information to the presiding judge, clerk, or judicial staff when the information is requested and is in the applicant's control or is reasonably available to the applicant and pertains to certification or investigative inquiries.
- c. The presiding judge ~~shall~~ must 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~~ under subsection (E)(5)(b)(4):
- (1) The applicant's age at the time of the conviction;
  - (2) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;
  - (3) The degree of violence, injury, or property damage, and the cumulative effect of the conduct;
  - (4) The applicant's level of disregard of ethical or professional obligations;
  - (5) The reliability of the information regarding the conduct;
  - (6) If the offenses involved fraud, deceit, or dishonesty on the part of the applicant resulting in harm to others;
  - (7) The recency of the conviction;
  - (8) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;
  - (9) The relationship of the conviction to the purpose of certification;
  - (10) The relationship of the conviction to the applicant's field of certification;
  - (11) The applicant's candor during the application process;
  - (12) The significance of any omissions or misrepresentation during the application process, and
  - (13) The applicant's overall qualifications for certification separate from the conviction.

- d. The presiding judge ~~shall~~ must promptly ~~notify~~ provide written notification to all applicants denied certification of the reasons for the denial, and the applicant's right to a hearing.
- e. An applicant is entitled to a hearing, ~~pursuant to~~ under this subsection, on the decision to deny certification ~~upon~~ on written request received within fifteen days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof.
- f. Computation of Time. For the purposes of this section, the computation of days ~~pursuant to~~ is calculated under Rule 6(a), Rules of Civil Procedure. ~~is calculated as follows:~~

~~(1) Day of the Event Excluded. Exclude the day of the act, event, or default that begins the period.~~

~~(2) Exclusions if the Deadline Is Less Than 11 Days. Exclude intermediate Saturdays, Sundays, and legal holidays if the period is less than 11 days.~~

~~(3) Last Day. Include the last day of the period unless it is a Saturday, Sunday, or legal holiday. When the last day is excluded, the period runs until the next day that is not a Saturday, Sunday, or legal holiday.~~

~~(4) Next Day. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.~~

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

1. Code of Conduct. Each certified process server ~~shall~~ must adhere to the code of conduct in subsection (J).
2. Conflict of Interest. ~~Pursuant to~~ Under Rule 4(d)(2), Arizona Rules of Civil Procedure, a specially appointed person "must not be a party, an attorney, or an employee of an attorney in the action in which process is to be served."
3. Identification Cards.
  - a. The identification card is the only official process server identification the court ~~shall~~ issues ~~pursuant to~~ under subsection E(4). A certified process server ~~shall~~ must carry the identification card at all times when serving process and promptly display it when requested by an interested party. This is the only form of identification a certified process server may use except government employee process servers who may use a government issued identification card in conjunction with the private process server identification card.
  - b. Certified private process servers ~~shall~~ must report lost or stolen identification cards to

the issuing clerk within three days of discovery of the loss. ~~Upon~~ On filing an affidavit ~~of reporting the loss~~ with the clerk and payment of any applicable fee, the clerk ~~shall~~ must issue a replacement identification card.

- c. ~~Upon~~ On suspension, ~~or~~ revocation, voluntary surrender, or expiration of certification, the presiding judge must notify the certificate holder and the clerk in writing that certification is withdrawn. The certificate holder—shall must surrender the issued identification card to the clerk within three days of receipt of notice. The clerk must update the list of certified private process servers to reflect this change in status and must notify division staff.
4. Change of Name or Address. A certificate holder ~~shall~~ must notify the clerk in the county of certification of any change in the legal name, business address, mailing address, home address, email address, or phone number of the certificate holder within 30 days of any change.
5. Assumed Name. A certificate holder ~~shall~~ must not transact business in this state under an assumed name or under any designation, name, or style, corporate or otherwise, other than the legal name of the individual.
6. Fees. The applicant ~~shall~~ must pay all required fees for certification, examination, and renewal of certification. The clerk ~~shall~~ must collect in advance these fees, which are non-refundable. ~~Pursuant to~~ Under A.R.S. § 12-3301, “A private process server may charge such fees for services as may be agreed upon between the process server and the party engaging the process server.”
7. Continuing Education. Certified private process servers ~~shall~~ must complete ten hours of continuing education each twelve months and ~~shall~~ must submit documentation of completion of this continuing education in a format approved by the director with the application for renewal of certification. Certified private process servers ~~shall~~ must complete continuing education classes that are relevant to the work of a process server, ~~pursuant to~~ under subsection L.
8. Employment Status of Private Process Servers.
  - a. Certified private process servers are not employees of the court, are not appointed by the court, and may not, in any way, represent themselves as such.
  - b. Private process servers may not, in any way, represent themselves as “peace officers” unless they are peace officers ~~pursuant to~~ under Arizona or federal law. Approval as a certified private process server does not, in itself, confer peace officer status on the holder.

## **G. Renewal of Certification.**

1. Expiration Date. All certificates expire at midnight, three years from date of issuance. All

certifications ~~shall~~ continue in force until expired, voluntarily surrendered, placed on inactive status, suspended, or revoked.

- a. When a private process server has filed a timely and complete application for renewal of certification, the existing certification does not expire until the administrative process for review of the renewal application has been completed.
  - b. If the presiding judge grants renewal of a certification, the effective date of the renewal is 12:01 a.m. of the first day following expiration of the prior certification regardless of any expiration date extensions provided in this code section. The renewed certificate expires at midnight, three years from the date of issuance.
  - ~~b~~c. The presiding judge may request an informal interview with the applicant for renewal to establish if additional information or an explanation of the information provided by the applicant is needed to determine if the applicant continues to meet the qualifications for certification.
  - ~~e~~d. If the presiding judge denies the renewal application, the existing certification does not expire until the last day for seeking a hearing on the decision to deny, ~~pursuant to~~ under subsection H, or, if a hearing is requested, until the final decision is made by the presiding judge ~~pursuant to~~ under subsection H.
  - ~~d~~e. The certificate of a certificate holder who does not supply a complete and timely renewal application and payment of the renewal fee ~~shall expire~~ as of the expiration date of the certificate. If the certificate holder files an application within twelve months after the expiration of the certificate, the presiding judge ~~shall~~ must consider the length of time that has lapsed since the expiration of the certificate, the private process server's stated reasons for failing to renew the certificate timely, and the process server's compliance with all other provisions of this code section, including the completion of continuing education credits. The presiding judge may require the private process server to submit additional information or complete additional continuing education before renewing the certificate, or any other actions the judge deems appropriate. The presiding judge ~~shall~~ must not allow a certified private process server to retake the initial certification examination as an alternative to completing continuing education credits.
  - ~~e~~f. The expiration provisions described in subsection G(1)(a) do not affect the authority of the presiding judge to take disciplinary action, including suspension or revocation of the certification of a certificate holder, if a complaint or investigation is pending prior to the expiration date.
2. Voluntary Surrender. A certificate holder in good standing may voluntarily surrender a certificate; however, this surrender is not valid until accepted by the presiding judge. The presiding judge may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules, and this code section. The surrender does not prevent the commencement of subsequent discipline

proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.

- a. If the presiding judge accepts the voluntary surrender, the clerk ~~shall~~ must designate the certificate of the certificate holder as a “surrendered certificate holder in good standing.” The presiding judge ~~shall~~ must notify the certificate holder in writing within ten days after the acceptance of the surrender. The clerk ~~shall~~ must update the list of certified private process servers to reflect this change in status and ~~shall~~ must notify division staff.
  - b. The presiding judge ~~shall~~ must not accept the surrender if there is a complaint pending against the certificate holder. However, this does not preclude the presiding judge ~~for~~ from entering into a consent agreement to resolve the pending complaint, by terms including the voluntary surrender of the certificate, ~~pursuant to~~ under subsection H.
  - c. The presiding judge ~~shall~~ must, within 120 days of the voluntary surrender of the certification, either accept the surrender or institute disciplinary proceedings ~~pursuant to~~ under subsection H. If the presiding judge subsequently imposes a sanction ~~pursuant to~~ under subsection H ~~upon~~ on the certificate of the surrendered certificate holder, the clerk ~~shall~~ must change the status of the certificate holder from “surrendered certificate holder in good standing” to that of a person so disciplined.
3. Application. A certified private process server whose certificate is in good standing may renew by filing a completed certification application for renewal, paying all fees, and submitting all required documents, including documentation of completion of the required hours of continuing education for the 3-year period of certification pursuant to ~~under~~ subsection L. The applicant ~~shall~~ must file the application with the clerk in the county of residence of the applicant. ~~After January 1, 2013, a~~ A non-Arizona resident who has been granted certification as a private process server, ~~shall~~ must apply for renewal of certification in the county where the initial application for certification was filed and certification was granted.
  4. Additional Information. Before granting renewal of certification, the presiding judge may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this code section. This may include fingerprinting, reexamination, background information, and updated photographs.
  5. Decision Regarding Renewal.
    - a. If the presiding judge is satisfied that the applicant continues to meet all qualifications for certification, as specified in subsection E(2), the presiding judge ~~shall~~ must renew the certification of the applicant. The presiding judge may refuse to renew the certification of an applicant for any of the reasons specified in subsection E. The presiding judge ~~shall~~ must promptly ~~notify~~ provide written notification to all applicants granted renewal of certification.

- b. The presiding judge ~~shall~~ must promptly ~~notify~~ provide written notification to an applicant denied renewal of certification, of the reasons for the denial and the applicant's right to a hearing.
  - c. An applicant is entitled to a hearing, ~~pursuant to~~ under subsection H, on the decision to deny renewal of certification ~~upon~~ on written request received within fifteen days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof.
6. Reinstatement after Suspension, Revocation, or Expiration of Certification.
- a. A private process server whose certificate has been suspended or revoked by a final order of the presiding judge, or whose certificate has expired, or been voluntarily surrendered, may apply for reinstatement under the following conditions:
    - (1) An applicant for reinstatement ~~shall~~ must file a written application for reinstatement with the clerk, accompanied by the appropriate fees and the following documents:
      - (a) ~~The~~ A reinstatement form and a copy of the final order of suspension or revocation, or date of voluntary surrender or expiration of certification;
      - (b) A detailed description of the applicant's occupation and sources of income or earnings derived during the period between the filing of the final order by the presiding judge or date of expiration or surrender of the certificate; and the date of application for reinstatement;
      - (c) A statement of every civil or criminal action and a copy of the action, in which the applicant was either plaintiff or defendant, since the submission of the last renewal application or, if no renewal application has been submitted, then since the initial application was submitted;
      - (d) A list of all criminal or civil final judgments since the submission of the last renewal application or, if no renewal application has been submitted, then since the initial application was submitted;
      - (e) A list of all residences and business addresses since the submission of the last renewal application or, if no renewal application has been submitted, then since the initial application for certification and the date the clerk receives the application for reinstatement;
      - (f) A concise statement of facts showing how the applicant for reinstatement has maintained the minimum competencies and knowledge during the period of time from the date of the final order of suspension until the date the clerk receives the reinstatement application;
      - (g) A concise statement of facts showing how the applicant for recertification has maintained the minimum competencies and knowledge during the time from the date of the order revoking the applicant's certificate until the date the clerk receives the application for certification;
      - (h) A concise statement of facts showing how the applicant for recertification has maintained the minimum competencies and knowledge during the time from the date of the expiration or voluntary surrender of the certificate until the applicant reapplies;

- (i) A statement of facts supporting reinstatement and recertification as a certified process server, and
  - (j) A statement of facts demonstrating the applicant's rehabilitation.
  - (2) The presiding judge may require additional information demonstrating that the applicant meets the minimum competencies of the profession. The presiding judge may require the applicant sit for and pass the initial certification examination in order to process the application or determine if the applicant meets the minimum competencies of the profession. The applicant has the burden of proof to demonstrate, by clear and convincing evidence, the applicant's rehabilitation, compliance with all discipline orders and rules, and that the applicant meets the minimum competencies of the profession. An applicant denied reinstatement by the presiding judge has the right to a hearing ~~pursuant to~~ under subsection (H), except if the applicant fails to provide the information within the requested time frame. Failure to provide the information may result in automatic denial of reinstatement without the right to a hearing.
  - (3) ~~Upon~~ On submission of all reinstatement requirements of subsection (G), the applicant ~~shall~~ must meet all requirements of initial certification ~~pursuant to~~ under subsection (E). The applicant for reinstatement after a suspension or revocation ~~shall~~ must also pay the fee for reinstatement.
- b. The presiding judge ~~shall~~ must not issue any certification under this section to any person whose certification has been suspended until:
    - (1) The person seeking reinstatement of a suspended certificate has demonstrated all the requirements of the suspension order have been met, and
    - (2) The person qualifies in accordance with the applicable provisions of this section.
  - c. The presiding judge ~~shall~~ must not issue any certification under this section to any person whose certification has been revoked until:
    - (1) One year has passed from the date of the presiding judge's final order of revocation;
    - (2) The person seeking certification provides proof of satisfaction of any and all requirements in the order of revocation, and
    - (3) The person again qualifies in accordance with the initial certification provisions of subsection (E).

## **H. Complaints, Investigation, Hearings, and Disciplinary Action.**

### **1. Complaints. Filing and General Provisions.**

- a. Filing of Complaint. All judicial officers, clerks of court, court employees, and certificate holders ~~shall~~ must, and any person may, notify the presiding judge if it appears that a certificate holder has violated applicable statutes, court rules, or this code section. The complainant ~~shall~~ must make the complaint in writing with sufficient specificity to permit further investigation. The complaint ~~shall~~ must include the name, telephone number, and address of the complainant. The complainant ~~shall~~ must file the complaint with the clerk in the county where the alleged violation by the certified

- process server occurred. The clerk ~~shall~~ must obtain records from the clerk of the county in which the process server is certified, as provided in subsection (D)(4)(a)(7), and forward those records and the complaint to the presiding judge.
- b. Complaints Initiated by the Presiding Judge. In accordance with subsection H, the presiding judge may direct court staff to investigate allegations of misconduct or violations of statutes, court rules, or this code section that may result in a complaint, if such investigation protects and serves the best interest of the public. Investigation may be ordered even if the complainant does not wish to have his or her identity disclosed to the certificate holder.
  - c. Anonymous Complaints. The presiding judge ~~shall~~ must not accept anonymous complaints.
  - d. Authority after Expiration. If a complaint or investigation is pending prior to the expiration date of a certificate, the provisions of subsection G regarding the expiration of the certificate do not affect the authority of the presiding judge to:
    - (1) Initiate a complaint;
    - (2) Investigate a complaint; or
    - (3) Take disciplinary action regarding the certificate of a certificate holder.
  - e. Standing of Complainant. A complainant does not have standing regarding any proceedings and is not a party to any proceedings. ~~On the~~ The complainant's request to, and approval by, the presiding judge, the complainant may, ~~upon request to the presiding judge,~~ receive notice of any public proceeding concerning the complaint or any consent agreements.
  - f. Non-abatement. Unwillingness or failure of the complainant to cooperate with judicial officers, judicial staff, staff of the clerk of the court, or division staff; withdrawal of the complaint or a specific allegation of misconduct or violation contained in the complaint; settlement or compromise between the complainant and the certificate holder; or restitution by the certificate holder ~~shall~~ must not abate the processing of any complaint or disciplinary proceeding.
  - g. Confidentiality. Information or documents obtained or generated by the presiding judge, clerk, director, division staff, or court employees during an open investigation, or received in an initial report of misconduct, are confidential except as mandated by court rules or this section.
    - (1) Confidential information may be disclosed during the course of an investigation:
      - (a) To judicial officers, court staff, the attorney general, county attorney, law enforcement, and other regulatory officials;
      - (b) If the presiding judge makes a finding the disclosure is in the best interest of the public and the interest is not outweighed by any other interests; or is not contrary to law.
    - (2) ~~Upon~~ On a determination of probable cause, all information and documents are open for public inspection unless:

- (a) Confidential by law or public record rules adopted by the supreme court, or
  - (b) If the presiding judge determines further investigation is necessary, the information or documents and those compiled in the further investigation ~~shall~~ must remain confidential until probable cause is determined.
  - (3) The address and phone number of the complainant ~~shall~~ must remain confidential.
- 2. Grounds for Discipline. A certificate holder is subject to disciplinary action if the presiding judge finds the certificate holder has engaged in one or more of the following:
  - a. Failed to perform any duty or discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, or this code section;
  - b. Failed to cooperate or supply information to the presiding judge, clerk of the court, judicial staff, or division staff by the specific time stated in any request;
  - c. Aided or assisted another person to provide services requiring certification if the other person does not hold the required certification;
  - d. Conviction of a criminal offense while certified by final judgment of a felony relevant to certification;
  - e. Failed to provide information regarding a criminal conviction;
  - f. Exhibited gross negligence;
  - g. Exhibited incompetence in the performance of duties;
  - h. Evaded service of a subpoena or notice of the presiding judge;
  - i. The existence of any cause for which original certification or any renewal of the certification could have warranted denial as described in subsection E or G.
  - j. Engaged in unprofessional conduct including:
    - (1) Assisted an applicant or certificate holder in the use of deception, dishonesty, or fraud to secure an initial certificate or renewal of certificate;
    - (2) Failed to comply with any court order or other regulatory agency order relevant to private process servers;
    - (3) Failed to comply with any federal, state or local law or rule governing the practice of the profession or occupation;
    - (4) Failed to comply with terms of a consent agreement or restriction of a certificate;
    - (5) Failed to retain client or customer records for a period of three years unless law or rule allows for a different retention period;
    - (6) Failed to practice competently by use of unsafe or unacceptable practices;
    - (7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill, and proficiency commonly exercised

by the ordinary skillful, careful, and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;

- (8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;
  - (9) Used advertising intended to or having a tendency to deceive the public;
  - (10) Used a court certification to deceive the public in level of skills or abilities;
  - (11) Willfully made or filed false reports or records in the practice of the profession or occupation;
  - (12) Failed to file required reports, records, or pleadings in the practice of the profession or occupation;
  - (13) Performed the responsibilities or duties of the profession or occupation when medically or psychologically unfit to do so;
  - (14) Engaged in habitual substance abuse;
  - (15) Engaged in undue influence over a client or customer to the benefit, financial or otherwise, of the certificate holder or a third party; or
  - (16) Violated any statute, court rule, or this code section regarding a confidentiality requirement.
3. Initial Screening. The presiding judge ~~shall~~ may determine if a complaint warrants further investigation and evaluation. If the complaint is outside the jurisdiction of the Private Process Server Program, the presiding judge ~~shall~~ must dismiss the complaint. The presiding judge may refer the complaint to another state agency or entity with jurisdiction.
  4. Preliminary Investigation. If warranted, the presiding judge ~~shall~~ may have a prompt, discreet, and confidential investigation of the complaint made.
  5. ~~Request for~~ Response from Certificate Holder. The presiding judge ~~shall~~ must have the complaint sent to the certificate holder within a reasonable period of time after commencement of the investigation and ~~shall~~ must ~~require~~ direct the certificate holder to provide a written response. The presiding judge ~~shall~~ must not proceed with disciplinary action under this code section without providing this notice and the opportunity to respond.
  6. Review of Complaint and Investigation. ~~Upon~~ On completion of an investigation, the presiding judge may:
    - a. Determine that no violation exists and dismiss the complaint;
    - b. Order further investigation;
    - c. Determine that the complaint is appropriate for resolution without proceeding to formal disciplinary proceedings, or
    - d. Determine that there is probable cause for belief in the existence of facts warranting

formal disciplinary proceedings.

7. Emergency Suspension. If the presiding judge finds the public health, safety or welfare requires emergency action and incorporates a finding to that effect in the order, the presiding judge may order emergency suspension of the certification of a certificate holder pending proceedings for revocation or other action. The presiding judge ~~shall~~ must institute these proceedings within 30 days of the issuance of the emergency suspension order. ~~Upon~~ On order of the presiding judge, the clerk ~~shall~~ must immediately provide written notification to ~~notify~~ all presiding judges, other clerks, and the division staff of any emergency suspension of a certificate holder. ~~Upon~~ On receipt of the notice of emergency suspension, division staff ~~shall~~ must immediately update the website listing of the private process server to designate the emergency suspension of the certificate.
8. Formal Disciplinary Proceedings.
  - a. Commencement. The presiding judge may commence formal proceedings if the judge finds probable cause to believe the certificate holder has committed misconduct under this code section and the complaint is not appropriate for resolution by informal discipline. The presiding judge may, ~~upon~~ on commencement of formal proceedings, select a hearing officer or other appropriate designee ~~pursuant to~~ under subsection H(10). For uniformity, consistency and ease of reading, the term “hearing officer” throughout this code section refers to the presiding judge, the hearing officer, or other officer designated by the presiding judge.
  - b. Notice to Certificate Holder. The presiding judge ~~shall~~ must have the formal statement of charges served on the certificate holder with a notice advising the certificate holder of the certificate holder’s rights ~~pursuant to~~ under this code section. This notice ~~shall~~ must comply with the provisions of subsection H(12).
9. Request for Hearing. All demands for hearing ~~shall~~ must specify:
  - a. The section of this code section that entitles the person to a hearing;
  - b. The factual basis supporting the request for hearing, and
  - c. The relief demanded.
10. Appointment of Hearing Officer. The presiding judge may appoint a judge or a hearing officer to hold a hearing when required to do so ~~pursuant to~~ under this code section, or ~~upon~~ on written demand by a person entitled to a hearing, ~~pursuant to~~ under this code section.
11. ~~Time line~~ Timeline for Hearing. The hearing officer ~~shall~~ must ensure that the hearing is held within 45 days of receipt of the request, if the request is made by a certificate holder, unless postponed by mutual consent for good cause. If the request is from the presiding judge, the hearing officer ~~shall~~ must hold the hearing as soon as practical at the discretion

of the hearing officer.

12. Notice of Hearing. The hearing officer ~~shall~~ must prepare and give the parties written notice of the hearing at least fifteen days prior to the date set for the hearing. The notice ~~shall~~ must include the following information:
  - a. A statement of the time, place and nature of the hearing;
  - b. A statement of the legal authority and jurisdiction for conduct of the hearing;
  - c. A reference to the particular sections of the statutes, this code section, and policies involved;
  - d. A short and plain statement of the allegations or factual bases supporting the relief requested. Amendments to the statement are permissible, and
  - e. If the hearing date has not previously been set, a statement indicating that, ~~upon~~ on request, the certificate holder will be afforded a hearing if the certificate holder makes the request in writing within ten days of receipt of the notice.
  - f. Personal service or service by certified mail, return receipt requested to the last business address of record with the clerk of the superior court, will accomplish service of the notice. For proof of service, a verified statement service was completed ~~shall~~ must be filed with the hearing officer. Service by mail is complete ~~upon~~ on deposit in the United States mail.
  - g. If a party is represented by an attorney, the attorney ~~shall~~ must receive service.
13. Filings, Answers, and Pleadings. A party ~~shall~~ must file answers to notices within ten days after the date the notice is served, unless otherwise ordered by the hearing officer. Answers ~~shall~~ must comply with Rule 8 of the Arizona Rules of Civil Procedure. If a party fails to file an answer within the time provided, the person is in default and the hearing officer may determine the proceeding against the party and admit one or more of the assertions contained in the notice. The hearing officer ~~shall~~ may determine any defenses not raised in the answer are waived.
  - a. Parties ~~shall~~ must file all motions at least five days prior to the scheduled hearing date, unless otherwise ordered by the hearing officer.
  - b. Parties ~~shall~~ must file responses to motions within five days of the filing of the motion.
  - c. The hearing officer and all parties to the proceeding ~~shall~~ must receive copies of all filings.
  - d. All filings ~~shall~~ must comply with Rule 5(h), Arizona Rules of Civil Procedure.

14. Discovery.

- a. No discovery is permitted, except as provided in this code section, unless agreed to by the parties or permitted by the hearing officer.
- b. The hearing officer, ~~upon~~ on written request, ~~shall~~ may order a party to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing, unless the evidence is privileged.
- c. The hearing officer, on the hearing officer's motion or ~~upon~~ on request, may require the parties, prior to the hearing, to disclose documentary evidence intended for use at the hearing, provided the evidence is not privileged.
- d. Parties may take depositions for use as evidence of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing. To take a deposition, a party ~~shall~~ must file with the hearing officer a written motion, with copies to all parties, setting forth the name and address of the witness, subject matter of the deposition, documents, if any, the parties are seeking for production, time and place proposed for the deposition, and justification for the deposition.
- e. Parties ~~shall~~ must file responses to requests for depositions, including motions to quash, within five days after the filing of the request for deposition.
- f. If a deposition is permitted, a subpoena and written order ~~shall~~ must be issued. The subpoena and order ~~shall~~ must identify the person to be deposed, scope of testimony to be taken, documents, if any, to be produced, and time and place of the deposition. The party requesting the deposition ~~shall~~ must arrange for service of the subpoena and order, with service on all parties five days before the time fixed for taking the deposition, unless, for good cause shown, the time is shortened by the hearing officer.

15. Subpoenas. For the purposes of investigations, hearings, or other proceedings under this code section, the hearing officer may subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual concerning the subject of any hearing or investigation. Subpoenas ~~shall~~ must be issued, served, and enforced in compliance with the Arizona Rules of Civil Procedure. An employee of the court or any other person as designated by the Arizona Rules of Civil Procedure may serve subpoenas.

16. Prehearing Conference. The hearing officer may order a prehearing conference at the request of any party or on the hearing officer's own initiative. The purpose of the conference is to consider any or all of the following actions:

- a. To reduce or simplify the issues for adjudication;
- b. To dispose of preliminary legal issues, including ruling on pre-hearing motions;

- c. To stipulate to the admission of uncontested evidence, facts and legal conclusions;
- d. To identify witnesses, and
- e. To consider any other matters that will aid in the expeditious conduct of the hearing.

17. Procedure at Hearings.

- a. ~~The~~ A hearing officer ~~shall~~ must preside over the hearing. The hearing officer ~~shall~~ have has the authority to decide all motions, conduct prehearing conferences, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, recess or adjourn the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.
- b. Rights of Parties. At a hearing:
  - (1) A party is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding; and
  - (2) Any person may represent him- or herself or appear through counsel. An attorney who intends to appear on behalf of a party ~~shall~~ must promptly notify the hearing officer, providing the name, address, and telephone number of the party represented and the name, address, and telephone number of the attorney.
  - (3) All persons appearing before the hearing officer in any proceeding ~~shall~~ must conform to the conduct expected in the Arizona Superior Court.
- c. Conduct of Hearing.
  - (1) The hearing officer may conduct the hearing in an informal manner and without adherence to the rules of pleading or evidence. The hearing officer ~~shall~~ requires evidence supporting a decision is substantial, reliable and probative and ~~shall~~ must exclude irrelevant, immaterial or unduly repetitious evidence. There is no right to a jury. All hearings are open to the public.
  - (2) The hearing officer ~~shall~~ must require that all testimony considered is under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation. The hearing officer may administer oaths and affirmations.
- d. Record of Hearing.
  - (1) The hearing officer ~~shall~~ must ensure that the oral proceedings or any part of the oral proceedings are electronically recorded and transcribed on request of any party. The party making the request ~~shall~~ must pay the cost of the transcript.
  - (2) A competent reporter ~~shall~~ must make a full stenographic record of the proceedings, if requested by a party, within five days prior to a hearing. The cost of the transcript is the responsibility of the requesting party. The hearing officer may require the

prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the record is a part of the court's record of the hearing and any other party with a direct interest ~~shall~~ may receive a copy of the stenographic record, at their request and expense ~~of the party~~. If no request is made for a stenographic record, the hearing officer ~~shall~~ must ensure that the proceedings are recorded as described in subsection H(17)(d)(1) of this code section.

18. Rehearing. The hearing officer may grant a rehearing or reargument of the matters involved in the hearing ~~upon~~ on written request of a party to a hearing filing the request with the hearing officer. The party ~~shall~~ must make the request within fifteen days after any order made ~~pursuant to~~ under a hearing was mailed or delivered to the person entitled to receive the order. The hearing officer ~~shall~~ must decide to grant or deny the request within 30 days of the date of filing of the request. A party ~~shall~~ must base the request for rehearing or review ~~upon~~ on one or more of the grounds listed in Rule 59, Arizona Rules of Civil Procedure, which materially affected the rights of a party and shall conform to the requirements of Rule 59. The hearing officer ~~shall~~ must permit any party served with a request for rehearing to file a response within fifteen days of service.

19. Decisions and Orders. The hearing officer ~~shall~~ must render the final decision within 30 days of the closing of the record of a hearing. The hearing officer ~~shall~~ must render the final decision in writing and ~~shall~~ must include findings of fact and conclusions of law, separately stated. A concise and explicit statement of the underlying facts ~~shall~~ must accompany findings of fact. Parties ~~shall~~ must receive notice of any decision or order either personally or by certified mail return receipt to the last known address.

20. Possible Actions for Resolution of a Complaint.

a. ~~Upon~~ On completion of an investigation concerning alleged misconduct by a certificate holder, which may or may not include informal or formal disciplinary proceedings or a hearing, the hearing officer ~~shall~~ must do one or more of the following:

- (1) Determine that no violation exists and dismiss the complaint with or without prejudice;
- (2) Determine that no acts of misconduct or violation occurred and no discipline is warranted; however, the certificate holder's actions need modification or elimination and issue an advisory letter ~~pursuant to subsection (H)~~;
- (3) Determine that the certificate holder has violated any of the provisions of the statutes, court rules or this code section and order an emergency suspension;
- (4) Determine that the certificate holder has violated any of the provisions of the statutes, court rules, or this code section and issue an order imposing any or a combination of the following informal or formal disciplinary sanctions:
  - (a) Issue a letter of concern;
  - (b) Issue a censure;
  - (c) Resolve any found acts or violations by consent order or other negotiated settlement;
  - (d) Place specific restrictions on a certificate;

- (e) Place the certificate holder on probation for a set period of time under specified conditions;
  - (f) Mandate additional training for the certificate holder;
  - (g) Order suspension of a certificate for a set period of time not to exceed three years with specified conditions for reinstatement;
  - (h) Revoke a certificate with specified conditions for reinstatement; or
  - (i) Any other action the hearing officer determines appropriate, including return or refund of service fees to a harmed person or entity. This ~~shall~~ may not include imposition of a fine.
- b. The hearing officer ~~shall~~ must issue an order specifying in what manner and to what extent any failure or violation is found and any sanctions ~~pursuant to~~ under this code section. Any disciplinary action ~~shall~~ must have effect statewide. The clerk ~~shall~~ must, within five days of any such action, notify in writing division staff of the action taken and of any subsequent changes in the status of the individual's approval to serve process. If the hearing officer issues an emergency suspension of a certificate, the clerk ~~shall~~ must immediately ~~notify~~ provide written notification to the presiding judges, clerks, and division staff of the action.

21. Procedure after Suspension or Revocation.

- a. ~~Upon~~ On suspension or revocation of any certification, the presiding judge ~~shall~~ must have notice promptly served on the certificate holder either in person or by certified mail, return receipt requested, addressed to the last address of record with the clerk. Notice by mail is complete ~~upon~~ on deposit in the United States mail.
- b. The presiding judge ~~shall~~ may only issue certification to any person whose certification had previously been revoked under this code section after the expiration of one year from the date of revocation, and after the person again qualifies in accordance with the reinstatement provisions of this code section.

22. Filing of Special Action. Decisions of the presiding judge, hearing officer, or other designee regarding certification, renewal of certification, or disciplinary action ~~pursuant to~~ under this code section are final. Parties may seek judicial review through a petition for a special action within 35 days after entry of the final order of the hearing officer. The petition for special action ~~shall~~ must be ~~pursuant to~~ under the Arizona Rules of Procedure for Special Actions.

**I. Reserved.**

**J. Code of Conduct.**

1. Preamble. The Arizona Supreme Court adopts the following Code of Conduct to apply to all private process servers pursuant to under A.R.S. § 12-3301, the Arizona Rules of Court, and this code section. The purpose of this Code of Conduct is to establish minimum standards for performance by private process servers and to ensure they conduct the service of process in a professional manner.
2. Rules and Applicable Laws. The private process server ~~shall~~ must perform all services and discharge all obligations in accordance with current Arizona and federal law, Arizona Rules of Civil Procedure, administrative orders, and this code section.
3. Skills and Knowledge. The private process server ~~shall~~ must demonstrate adequate skills and knowledge to perform the work of a private process server and ~~shall~~ must seek training opportunities to maintain professional competency and growth.
  - a. The private process server ~~shall~~ must possess sufficient verbal and written communication skills to perform the private process server role.
  - b. The private process server ~~shall~~ must manage service proficiently. Skills required include those necessary to perform the service, maintain records, and communicate with the client in a timely fashion.
  - c. The private process server ~~shall~~ must keep the client reasonably informed about the status of the service and promptly comply with reasonable requests.
  - d. The process server ~~shall~~ must ensure all affidavits and certificates prepared by the private process server are complete, accurate, and understandable and are timely filed with the court.
4. Professionalism. The private process server ~~shall~~ must exercise the highest degree of professionalism in all interactions with clients, the party located, and others they come in contact with during the service. The private process server ~~shall~~ must utilize professional judgment and discretion at all times.
  - a. The private process server ~~shall~~ must handle all legal documents with care and maintain required records in a professional manner.
  - b. The private process server may act as a mentor to assist an inexperienced certified private process server for the purpose of increasing skill level and successful service of process.
  - c. The private process server ~~shall~~ must not provide or offer to provide legal advice.
  - d. The private process server ~~shall~~ must not violate any rules adopted by the Arizona Supreme Court or conduct him- or herself in a manner that would reflect adversely on the judiciary, the courts, or other agencies involved in the administration of justice.
  - e. The private process server ~~shall~~ must respect the confidentiality of information and

- ~~shall~~ must preserve the clients' confidences; this duty outlasts the employment of the private process server.
- f. The private process server ~~shall~~  must maintain a professional appearance at all times.
  - g. The private process server ~~shall~~  must be courteous and polite in all dealings.
  - h. The private process server may explain the general nature of the served papers but ~~shall~~  must never engage in any unnecessary discussions regarding the action being served, with the persons receiving service.
  - i. The process server may provide general legal information to a client and persons receiving service but ~~shall~~ must not represent that he or she is authorized to practice law in this state, nor ~~shall~~  may the process server provide any kind of legal advice, opinion or recommendation about possible legal rights, remedies, defenses, options or strategies.
  - j. The private process server ~~shall~~ must know the protocol for service of process in a court building before proceeding with service and ~~shall~~  must take appropriate steps to avoid impairing security or creating a security issue in a court building.
  - k. The private process server ~~shall~~  must only serve the legal documents and papers included in the civil action for which the process server has been retained to serve process. No additional papers, advertisements, or brochures may be included in the service of process.
5. Ethics. The private process server ~~shall~~  must perform services in a manner consistent with legal and ethical standards.
- a. The private process server, having located the sought-after party or persons receiving process for those persons intended for service, ~~shall~~  must perform the service of process in a professional manner, utilizing sound judgment and avoid rudeness and unprofessional conduct.
  - b. The private process server ~~shall~~  must present service in a nonjudgmental manner.
  - c. The private process server ~~shall~~  must not misrepresent the private process server's qualifications, fees, or any other information relating to the role of the private process server.
  - d. The private process server ~~shall~~  must not utilize certification in any manner to gain access to information or services for purposes other than those of the Private Process Server Program.
  - e. The private process server ~~shall~~  must maintain the best interests of the client by maintaining a high standard of work and reporting to a client the full facts determined as a result of the work and effort expended whether they are advantageous or detrimental to the client.

6. Candor.

- a. A private process server ~~shall~~ must not knowingly:
  - (1) Falsify or misrepresent the facts surrounding the delivery of legal process to any person or entity;
  - (2) Make a false statement of material fact or law to a tribunal; or
  - (3) Fail to disclose a material fact to a tribunal, except as required by applicable law.
- b. A private process server ~~shall~~ must notify the presiding judge within ten days of a misdemeanor or felony conviction. The private process server ~~shall~~ must provide this notice to the presiding judge in the county of certification of the process server.
- c. A certified private process server may not wear a uniform, use a title, insignia, badge, or identification card or make any statement that would lead a person to believe the certificate holder is an employee of a federal government, state government, or any political subdivision of a state government unless the certificate holder is so authorized by proper authorities. No badge of any type may be used, shown or offered as identification in conjunction with the identification card or independently.

**K. Reserved.**

**L. Continuing Education Policies.**

1. Purpose.

- a. Service of process is integrally related to the prompt, effective, and impartial operation of the judicial system. Private process servers are required to demonstrate a basic level of competency to become certified and practice in Arizona. Ongoing, continuing education (CE) is one means to ensure a certified process server maintains continuing competence as a process server after certification is obtained. It also provides opportunities for process servers to keep abreast of changes relating to the service of process, the law, and the Arizona judicial system.
- b. These continuing education policies are intended to provide direction to certified private process servers, and to the presiding judges and clerks who administer the Private Process Server Program in each county; to ensure compliance with this code section regarding continuing education credits; and to provide for equitable statewide application and enforcement of the continuing education requirements.

2. Applicability. ~~Pursuant to~~ Under subsection (F), all certified private process servers ~~shall~~ must complete at least ten hours of approved continuing education every twelve months in an area relevant to the work of a certified private process server. The private process server ~~shall~~ must submit documentation of completion of the continuing education for the 3-year certification period in an approved format with the application for renewal of certification.

Any hours completed after the filing of the renewal application do not apply to either the current certification or the renewed certification. Only hours completed after the renewed certification is effective will apply to the continuing education requirement for the renewed certificate's 3-year certification period. Pursuant to subsection G, a renewal period is for three years from the date of issuance of the certificate.

3. Responsibilities of Certified Private Process Servers.

- a. It is the responsibility of each certified private process server to ensure compliance with the ~~CE~~ continuing education requirements, maintain documentation of completion of ~~CE~~continuing education and to submit this documentation with the renewal application.
- b. ~~Upon~~ On request, each certified private process server ~~shall~~ must provide any additional information required by the presiding judge when the judge is reviewing the renewal application and ~~CE~~continuing education compliance and documentation.
- c. If a ~~CE~~ continuing education activity has not been pre-approved, the rejection of any activity completed by a private process server and submitted with the application for renewal does not diminish the responsibility of the process server to comply with the ~~CE~~ continuing education requirement.

4. Authorized Continuing Education Activities.

- a. ~~CE~~ Continuing education activity ~~shall~~ must address the areas of proficiency, competency, and performance, and impart knowledge and understanding of the service of process, the Arizona judiciary, and the legal process, and ~~shall~~ must increase the participants' understanding of the responsibilities of a certified private process server and the process server's impact on the judicial process. Acceptable topics for ~~CE~~ continuing education activities include:
  - (1) Ethics for private process servers and court employees, including cooperation with lawyers, judges, and fellow private process servers, professional attire, courtesy and impartiality to all litigants, information vs. legal advice, and public relations;
  - (2) The Arizona court system, including the state and federal constitution, branches of government, Arizona court jurisdiction and responsibilities, Arizona tribal court system, resource materials including Arizona Revised Statutes, Arizona Rules of Court, case law, and administrative orders; and current issues in the Arizona court system; and
  - (3) Role and responsibilities of the certified private process server including this code section.
- b. Persons developing and presenting ~~CE~~ continuing education activities ~~shall~~ must have expertise in the curriculum, knowledge of adult education principles, and the ability to prepare and present educational material effectively. The education faculty presenting a ~~CE~~ continuing education activity should consist primarily of individuals with

experience and expertise in the service of process, legal, and judicial community; faculty from other disciplines is permissible when their expertise will contribute to the goals of a specific program. The ~~CE~~ continuing education activity ~~shall~~ must specify for whom the program is primarily designed, the course objectives, course content, and teaching methods. All ~~CE~~ continuing education activity ~~shall~~ must be conducted in an organized setting free from distractions.

- c. Pre-Approved Activities. Subject to the conditions specified in this policy, programs, seminars and courses of study offered or approved by the following entities are pre-approved and accredited:

- (1) Arizona Process Servers Association (APSA);
- (2) Arizona Supreme Court Committee on Judicial Education and Training (COJET);
- (3) United States Private Process Servers Association (USCRA);
- (4) Arizona Courts Association (ACA); and
- (5) National Association of Court Management (NACM).

- d. Sponsoring Entities. Unless a ~~CE~~ continuing education activity has been pre-approved, entities wishing to administer a ~~CE~~ continuing education activity ~~shall~~ must submit the proposed ~~CE~~ continuing education activity on the approved form to the division staff of the Arizona Supreme Court, Administrative Office of the Courts (AOC), for consideration prior to conducting the activity. Applications submitted by a sponsoring entity after the ~~CE~~ continuing education activity has been completed or conducted will be rejected.

- (1) At a minimum, the proposal ~~shall~~ must meet all requirements of this policy and ~~shall~~ must include the following:

- (a) location, date and time of the proposed activity, with an agenda that identifies the time allocated for each topic and the time allocated for breaks and other activities that do not qualify for ~~CE~~ continuing education credit;
- (b) proposed audience;
- (c) course content, objectives, teaching methods, and the evaluation method;
- (d) names and qualifications of the faculty;
- (e) written materials for the participants (a copy of the materials ~~shall~~ must be included with the proposal), and
- (f) number of ~~CE~~ continuing education credits the sponsoring entity is recommending ~~the AOC division staff~~ grant for completion of the activity.

- (2) In addition, the proposal ~~shall~~ must include a statement the sponsor agrees to verify attendance of the participants; provide a certificate of attendance for each participant who successfully completes the activity; and, ~~upon~~ on request of ~~the~~ AOC division staff, provide any additional information requested to assist the AOC division in evaluating whether to approve the activity or to ensure compliance with this policy.

- e. Serving as Faculty. ~~CE~~ Continuing education credit may be granted for serving as

faculty, an instructor, speaker, or panel member of an approved CE continuing education seminar directly related to the service of process. CE Continuing education credit will be granted for the actual presentation time, plus actual preparation time up to two hours for each hour of presentation time. A maximum of five hours of CE continuing education credit will be granted for serving as faculty in any renewal period and a private process server may not receive credit for presenting a program repeatedly throughout the renewal period. A private process server may receive CE continuing education credit for actual presentation time for duplicate programs presented in subsequent renewals periods, but will not be granted CE continuing education credit for preparation time for those programs.

- f. Authoring or Coauthoring Articles. CE Continuing education credit may be granted for authoring or coauthoring an article directly related to the service of process, if the article is published in a state or nationally recognized professional journal relating to the service of process and if the article is a minimum of one thousand words in length. A maximum of one hour of CE continuing education credit may be earned for authoring an article or articles in any one renewal period. Credit ~~shall~~ must not be granted for the same article published in more than one publication or republished in the same publication in later editions.
- g. University, College, and Other Educational Institution Courses. A certified private process server may receive CE continuing education credit for a course provided by a university, college, or other educational institution, if the private process server successfully completes the course with a grade of “C” or better or a “pass” on a pass/fail system. The private process server may receive CE continuing education credit of up to two times the number of credit hours awarded by the educational institution if upon documentation that the course is relevant to the service of process. If the course is approved, credit will be awarded by multiplying the number of credit hours awarded by the educational institution by two, however, the The maximum hours of credits earned from educational course work total of CE credits for completion of courses pursuant to this subsection shall may not exceed 50 percent of the total number of CE continuing education hours required ~~for~~ during the renewal certification period.
- h. Minimum Time. Each CE continuing education activity ~~shall~~ must consist of at least 30 minutes of “actual clock time” spent ~~by a registrant~~ in actual attendance at ~~and~~ or completion of an approved CE continuing education activity. “Actual clock time” ~~is~~ includes the total hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the initial 30 minutes of CE continuing education activity, credit may be given in ~~fifteen~~ 15-minute increments. A process server may not use additional earned CE continuing education credits for subsequent renewal periods.
- i. Maximum Credit. Unless a CE continuing education activity is directly related to the private process server profession, a private process server may not receive more than 50 per cent of the credit requirement for the ~~renewal~~ certification period through one activity.

- j. Conferences. ~~CE~~ Continuing education credit may be requested for attendance at a conference relevant to the work of a process server. A process server may receive 100 per cent of the ~~CE~~ continuing education credits for attendance at the conference, if the conference is directly related to the work of a process server. The process server must provide documentation of the specific sessions of the conference attended, with documentation of the hours for each session of the conference the process server attended. Credit may be granted for attendance at general sessions of the conference.
- k. Repeat of an Activity. Generally, credit will not be granted for process servers who repeat an activity within the same renewal period. Exceptions maybe granted if it is determined that the activity is directly related to the work of a process server profession and duplication of the continuing education activity will enhance the process server's knowledge, skill, and competency.
- l. Documentation of Attendance or Completion. When attending or completing a ~~CE~~ continuing education activity, each process server ~~shall~~ must obtain documentation of attendance or completion from the sponsoring entity. At a minimum, this documentation ~~shall~~ must 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;
  - (6) signature of the sponsor, or the documentation ~~shall~~ must be an official document of the sponsoring entity; for example, a college grade report, etc.,
  - (7) signature of the process server, either in the space specifically provided on the form for this purpose, or the process server may sign across the documentation (for example, the college grade report) to indicate attendance and completion at the activity, and
  - (8) if the ~~CE~~ continuing education activity comprises eight or more hours of credit within one day, the documentation ~~shall~~ must include an agenda that specifies the time allocated to each topic and the time for breaks and a lunch break.
- m. A process server ~~shall~~ must not request and credit ~~shall~~ must not be granted if the process server attends part, but not all, of the provided activity. Notwithstanding the signature of the sponsoring entity regarding the ~~CE~~ continuing education credits for an activity, it is the responsibility of the process server to accurately calculate the number of hours attended, subtracting out any time for general introductions and other activities that do not qualify for credit.
- n. ~~Process servers requesting CE credit for self study shall submit documentation of completion on an approved form.~~ Self-Study. A process server may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio

materials, attending online seminars, and other methods of independent learning. The maximum hours of continuing education credits earned in a self-study format may not exceed 50 percent of the total number of continuing education hours required during the certification period. The remaining hours must be obtained through live training, meaning training or education provided by one or more faculty or facilitators to an individual or a group using real-time interaction

5. Non-Qualifying Activities. The following activities, regardless of whether ~~or not~~ the activity is approved for COJET credit, ~~shall~~ do not qualify for ~~CE~~ continuing education credit for certified private process servers:
  - a. Completion of the examination required for initial certification;
  - b. Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions or program orientation;
  - c. Serving on committees or councils or as officers in a professional organization, and
  - d. Activities completed as required by the presiding judge as part of a disciplinary action.
6. Decision Regarding Continuing Education Credits.
  - a. ~~Upon~~ On a review of an application for renewal of certification and the required accompanying ~~CE~~ continuing education documentation, the presiding judge may:
    - (1) Approve the ~~CE~~ continuing education credit;
    - (2) Approve part but not all of the requested ~~CE~~ continuing education credit;
    - (3) Require additional information from the requester before making a decision; or
    - (4) Deny the ~~CE~~ continuing education credit.
  - b. The private process server ~~shall~~ must be notified in writing of the decision regarding the ~~CE~~ continuing education credit.
7. Compliance and Non-Compliance.
  - a. An applicant for renewal of certification may be requested to supply additional information to verify compliance with the ~~CE~~ continuing education requirements. If the applicant fails to provide the requested information, the presiding judge may deny the ~~CE~~ continuing education credit.
  - b. ~~Pursuant to~~ Under subsection (H)(I), a certified private process server who fails to meet the ~~CE~~ continuing education requirement, falsifies ~~CE~~ continuing education documents, willfully misrepresents ~~CE~~ continuing education activities and attendance at ~~CE~~ continuing education activities, or attempts to circumvent the ~~CE~~ continuing education requirements by submitting an initial application for certification within twelve months of the expiration of the original certificate, is subject to denial of renewal of certification, disciplinary action, or both.