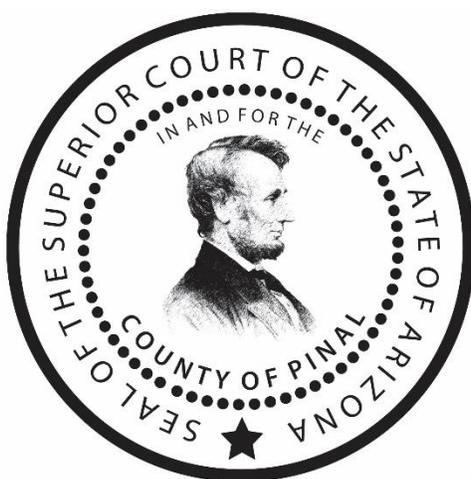


# **PRIVATE PROCESS SERVER APPLICATION PACKET**



## **PINAL COUNTY**

**APPLICANT MUST BE A RESIDENT OF PINAL COUNTY**

### **INSTRUCTIONS AND STUDY GUIDE**

**Provided as a Public Service by  
Amanda Stanford  
Clerk of the Superior Court**

# PRIVATE PROCESS SERVER INFORMATION

## **SCHEDULING**

Wednesdays at 9 am and at 1:30 pm

Thursday at 1:30 pm only

\*\*Applicants are given 90 minutes to take the test

## **FEES**

Fee:	\$188.00
Background Check:	\$22.00

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<b>Total:</b>	<b>\$210.00</b>	<b>(May be paid in check, money order, cash, credit)</b>
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Applicants are also required to bring a \$5.00 Money Order (a money order will only be accepted) payable to Pinal County Sheriff's Department. This is the fee for the fingerprinting service.

## **ADDITIONAL REQUIREMENTS**

Applicants are required to be a resident of Pinal County to take the test in our office.

**APPLICATION MUST BE FILLED OUT WHEN YOU COME IN TO TAKE THE TEST.**

# **CERTIFICATION AS A PRIVATE PROCESS SERVER APPLICANT INSTRUCTIONS**

## **INTRODUCTION**

The Arizona Code of Judicial Administration §7-204: Private Process Server, as adopted by Arizona Supreme Court Administrative Order No. 2002-110, effective January 1, 2003, governs the application, certification, and disciplinary procedure for private process servers. Pursuant to §7-204, the application, certification and discipline of private process servers is administered locally by the Superior Court in each county. Pursuant to Arizona Revised Statutes §11-445, §7-204 and the Arizona Rules of Civil Procedure 4(e), a certified process server has authority to serve court papers (process) for any court of the state anywhere within the state.

## **APPLICATION**

The procedures for application for certification are outlined in §7-204(E). Applicants are required to apply for certification in the county of their residence. The Clerk of the Superior Court will provide applicants with the application materials, including a copy of §7-204. Additional information is also available on the Arizona State Judicial Website at <https://www.azcourts.gov/cld/Private-Process-Server>.

Applicants must be at least 21 years of age and have been a resident of Arizona for at least one year immediately preceding the application. Application for certification includes:

- Completing and filing a standardized statewide application;
- Submitting two photographs;
- Submitting fingerprints for a criminal history records check;
- Payment of fee to the Clerk of the Superior Court; and
- Passing an examination administered by the Clerk of the Court.

## **PROCEDURE FOR OBTAINING CERTIFICATION AS A PRIVATE PROCESS SERVER:**

1. Pick up a private process servers application packet from the Clerk of the Superior Court.

This will include:

- Application;
  - Photograph Requirements;
  - Arizona Code of Judicial Administration §7-204: Private Process Server; and
  - Study guide for private process server's examination.
2. Follow the instructions provided by the Clerk regarding the procedure for filing the application, fingerprint card and payment of all associated fees.
  3. Make arrangements with the Clerk to take the examination. It is suggested you review the study guide: the Clerk will provide you with a copy or you can review the guide posted on the website.
  4. Take the examination. Pencils will be provided. Be sure to completely erase all changed answers to allow the scorer to know exactly which answer you are providing. You will have 90 minutes to take the

test. The Clerk will inform you, either verbally or in writing of your score, within ten days from the date you take the examination. A passing grade is 85% or more.

If you fail the examination, the Clerk will provide you with your score, an indication of the general area of the statutes, rules, sections of §7-204 and case law where you missed the questions, and the procedures for reexamination. You may, on written request, review your examination papers and grade during business hours in the presence of staff. You may not copy any of the materials provided for your review. A reexamination must be taken within 90 days from the date of filing your application. Your original application and fee will still be valid.

If you fail the examination a second time, you may submit a written request to the presiding judge requesting consideration for an opportunity to reapply and sit for the examination an additional time. Proof of attendance and satisfactory completion of a course of study specific to the private process server profession shall accompany your written request. The presiding judge may deny or approve your request. If you are approved to take the examination again, the entire application process begins, including the payment of fees.

### **PROVISIONAL CERTIFICATION**

If you pass the examination the presiding judge or designee will review the application, and the result of the examination. The judge may require additional background information, may grant provisional certification or may deny certification for any of the reasons cited in §7-204(E)(5). If provisional certification is granted, you will be advised when to return to the court. A provisional identification card valid for up to 120 days will be issued pending receipt of the criminal history records check and final review by the presiding judge or designee.

### **STANDARD CERTIFICATION**

Upon receipt of the national criminal history records check, the presiding judge or designee will review the criminal history records information. You will be advised if you are granted standard certification. Again, the judge may require you to submit additional information. If standard certification is granted you will be instructed to return to the court and a standard identification card will be issued.

If, based upon the information provided on the criminal history records check or as determined by the presiding judge or designee, provisional certification is withdrawn, you are required to return the provisional identification card to the Clerk of the Superior Court within one working day.

## **PRIVATE PROCESS SERVER CERTIFICATION PHOTOGRAPH REQUIREMENTS**

The applicant shall submit two identical photographs taken within the last six months. Each photograph should measure two (2) inches by two (2) inches with the image not less than one inch or more than one and three-eighths inches as measured from the bottom of the chin to the top of the head including hair. Pictures shall be portrait-type prints, clear, full face taken in normal attire. They should be plain with a light or off-white background. "Passport" type photographs are acceptable. Photos may be either black and white or in color. Tinted black and white pictures are not acceptable.

Since a process server's photograph serves to identify the process server, the picture should be an accurate likeness of the individual. If eyeglasses, a hearing device, wig or similar articles are normally worn, these articles should be worn in the picture. Dark glasses or nonprescription glasses with tinted lenses are not acceptable unless required for medical reasons.

One photograph will be used on the non-provisional identification card issued; the other will be kept on file with the Clerk of the Superior Court.

It is the applicant's responsibility to provide these pictures and any subsequent pictures that may be required due to loss or theft of the identification card. Applicants are encouraged to get a new identification card when there is a change to features (for example, beginning to wear glasses, switching to contact lenses, hair loss or some other event that alters the appearance from that of the identification photograph).

## **RESPONSIBILITIES OF CERTIFICATE HOLDERS**

Certified process servers are expected to know and abide by the responsibilities outlined in §7-204(F). This includes abiding by the Code of Conduct, completion of continuing education, and updating the Clerk of any change in name and address.

Standard certification expires every three years. It is the responsibility of the certified process server to timely file the renewal application and meet all requirements for renewal. Additional information is contained in §7-204(G).

Complaints alleging violations by certified private process servers and any subsequent disciplinary action will be handled by the Superior Court in the county in which the complaint is filed. Disciplinary action taken in any county will affect your authority to serve process in all counties. Refer to §7-204(H) for additional information.

# **STUDY GUIDE FOR PRIVATE PROCESS SERVER CERTIFICATION EXAMINATION**

It is strongly recommended you spend time with an attorney or at the law library to acquaint yourself with state laws (Arizona Revised Statutes A.R.S.), Arizona Rules of Court, Rules of Civil Procedure (RcP) and local (individual county) court rules. Information contained in this packet should be considered a guide and is not intended to be a complete listing of all laws and rules a private process server would need to know. Selected information, for example, the Administrative Order and Arizona Code of Judicial Administration are posted on the Arizona Judicial Branch Website at <http://www.azcourts.gov/orders/AdministrativeOrdersIndex.aspx> and the Arizona Rules of Court at <http://www.azcourts.gov/rules/Home.aspx>

## **READ:**

- < Administrative Order 2002-110
- < Arizona Code of Judicial Administration §7-204: Private Process Server
- < The local court rules for each county where you intend to or may be employed to serve papers.
- < A.R.S. §10-501 - Known Place of Business and Statutory Agent
- < A.R.S. §10-504 - Service upon Corporation
- < A.R.S. §11-447 - Service of Process Regular on its Face
- < A.R.S. §11-448 - Duty to Show Process
- < A.R.S. §12-303 - Witness Fees and Mileage. Arizona Rules of Civil Procedure (RcP), Rule 45(d)(2), states that for service of a subpoena, when the subpoena commands the appearance of a party at a trial or hearing, or is issued on behalf of the state or any of its officers or agencies, fees and mileage need not be tendered.
- < A.R.S. §12-1175(c) - Complaint and Answer; Service and Return
- < A.R.S. §12-2294.01. Release of medical records or payment records to third parties pursuant to subpoena
- <
- < A.R.S. §12-3301 - Fees Chargeable in Civil Actions by Private Process Servers, Authority of Private Process Servers; Background Investigations
- < A.R.S. §13-1501, §13-1502, §13-1503, and §13-1504 - Criminal Trespass
- < A.R.S. §13-2810 - Interfering with Judicial Proceedings; Classification

- < A.R.S. §13-2814 - Stimulating Legal Process; Classification
- < A.R.S. §13-3802 - Right to Command Aid for Execution of Process; Punishment for Resisting Process
- < A.R.S. §13-4072 - Service of Subpoena
- < A.R.S. §13-4093 - Witness from Another State Summoned to Testify in this State
- < A.R.S. §13-4094 - Exemption from Arrest and Service of Process
- < A.R.S. §33-1377 - Service of Special Detainer Actions
- < A.R.S. §39-121 - Inspection of Public Records [useful in locating defendants for service]
- < RcP, Rule 3 - Commencement of Action
- < RcP, Rule 4 - Process
- < RcP, Rule 4.1 - Service of Process Within Arizona
- < RcP, Rule 5 - Service and Filing of Pleadings and Other Papers [entire rule, but especially 5(c)2]
- < RcP, Rule 7 - Pleadings Allowed; Form of Motions and Other Documents; 7.3 Orders to Show Cause
- < RcP, Rule 10 - Form of Pleading [sets out size of paper, margins and other technicalities for preparing pleadings]
- < RcP, Rule 45 – Subpoena
  - *Tolelson v. Haines*, 2 Ariz.App. 127, 406 P.2d 845, Ariz. App. (1965)
  - *Hatmaker v. Hatmaker*, 337 Ill.App. 175, 85 N.E. 2d 345 (1949)
  - *In re Ball*, 2 Cal.App.2d 578, 38 P.2d 411 (1934)
  - *Thorndyke v. Jenkins*, 61 Cal.App.2d 119, 142 P.2d 348 (1943)
  - *Trujillo v. Trujillo*, 71 Cal.App.2d 257, 162 P.2d 640 (1945)
  - *Lane v. Elco*, 134 Ariz. 361, 656 P.2d 650 (1982)
  - *Endischee v. Endischee*, 141 Ariz. 77, 685 P.2d 142 (1984)
  - *Enriquez v. State*, 115 Ariz. 342, 565 P.2d 522 (1997)
  - *Francisco v. State*, 113 Ariz. 427, 556 P.2d 1 (1976)
  - *Marsh v. Hawkins*, 7 Ariz.App. 226, 437 P.2d 978, 31 A.L.R.3d 1383 (1968)



**Arizona Supreme Court  
Administrative Office of the Courts  
Certification and Licensing Division  
1501 West Washington, Suite 104  
Phoenix, Arizona 85007-3231**

**[www.supreme.state.az.us/cld/pps.htm](http://www.supreme.state.az.us/cld/pps.htm)**

**Arizona Code of Judicial Administration  
Section § 7-204  
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# **PRIVATE PROCESS SERVER PROGRAM**

## PRIVATE PROCESS SERVER PROGRAM

Pursuant to Arizona Revised Statutes § 11-445(H) and Rule 4, Arizona Rules of Civil Procedure, individuals granted certification as a private process server are authorized to serve process for any court of the state anywhere within Arizona. The Arizona Supreme Court has adopted the Arizona Code of Judicial Administration (ACJA), Section § 7-204: Private Process Server, providing for the statewide certification of process servers. Pursuant to § 7-204, the application, certification and discipline of private process servers is administered locally by the Superior Court in each county. The Administrative Director of the Courts, pursuant to the authority granted to the Director by § 7-204, has adopted continuing education policies for private process servers through adoption of Administrative Directive 2003-01.

The ACJA, Administrative Order, Administrative Directive and updates regarding the Program, including a statewide list of certified process servers, are posted to the Arizona judicial department Web Page.

If you have questions regarding the Private Process Server Program:

- Visit the Private Process Server Web Page at <http://www.azcourts.gov/cld/PrivateProcessServer.aspx>
- Email the Program at: [ProcServ@courts.az.gov](mailto:ProcServ@courts.az.gov)
- Contact the Office of the Clerk of the Court in your county of residence
- Contact the Certification and Licensing Division of the Arizona Supreme Court, Administrative Office of the Courts at 602-452-3378
- Questions may also be mailed to:

Arizona Supreme Court, Administrative Office of the Courts  
Certification and Licensing Division  
Private Process Server Program  
1501 West Washington, Suite 104  
Phoenix, AZ 85007-3231

Email: [ProcServ@courts.az.gov](mailto:ProcServ@courts.az.gov)

**ADMINISTRATIVE ORDER NO. 2002-110**

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of: )  
 )  
ARIZONA CODE OF JUDICIAL ) Administrative Order  
ADMINISTRATION ' 7-204: ) No. 2002- 110  
PRIVATE PROCESS SERVER ) (Replacing Administrative Order  
 ) No. 94-20)  
 )  
\_\_\_\_\_ )

The above captioned provision having come before the Arizona Judicial Council on October 17, 2002, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution, Arizona Revised Statutes § 11-445(H), and Rule 4, Arizona Rules of Civil Procedure,

IT IS ORDERED that the above captioned provision, attached hereto, including Appendix A, the Code of Conduct, is adopted as a section of the Arizona Code of Judicial Administration replacing Administrative Order No. 94-20, and the Policies and Procedures, Statewide Private Process Servers, Registration Process, as adopted by David K. Byers, Administrative Director of the Courts on March 22, 1994.

IT IS FURTHER ORDERED that this section of the Arizona Code of Judicial Administration is effective on January 1, 2003.

IT IS FURTHER ORDERED that, pursuant to subsection F(7) of this code section, all certified process servers shall begin to accrue the required ten hours of continuing education hours every twelve months from and after January 1, 2003. From and after January 1, 2004, certified process servers who submit an application for renewal of certification shall submit with the application, documentation of completion of continuing education hours in compliance with subsection F(7).

Dated this 27<sup>th</sup> day of November, 2002.

FOR THE COURT:

**NOT AN OFFICIAL COPY**

\_\_\_\_\_  
CHARLES E. JONES  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**§ 7-204: PRIVATE PROCESS SERVER**

**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.** In this code section the following definitions apply:

“Administrative Director” means the director of the Administrative Office of the Courts, Arizona Supreme Court, or the director’s designee.

“Administrative Office” means the Administrative Office of the Courts, Arizona Supreme Court.

“Code Section” means the referenced provision of the Arizona Code of Judicial Administration.

“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.

“Days” means the same as provided by Arizona Rules of Civil Procedure, that is: the computation of days is as follows: If “. . . less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation . . . “ and if “. . . 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation.”

“Formal Charges” means a document setting forth specific acts of misconduct by a certified private process server upon a determination of probable cause.

“Formal Disciplinary Proceedings” means filing of formal charges specifying misconduct by a certified private process server. Formal disciplinary proceedings commence after a finding there is probable cause to believe a private process server has committed a violation of the administrative code, statutes or court rules pertaining to service of process that if true, would warrant a public sanction. The public sanction could include restrictions on the certificate, or suspension or revocation of the certificate.

“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.

“Informal Disciplinary Proceedings” means resolution of a complaint prior to the filing of formal charges. An informal disciplinary proceeding may result in imposition of sanctions, but the sanction may not include restrictions on a certificate, suspension or revocation of a certificate. “Presiding Judge” means the presiding judge of the Arizona Superior Court or the presiding judge’s designee.

“Private Process Server” means a person, duly appointed or registered pursuant to the requirements in A.R.S. § 11-445(H), this code section, and any other applicable statute or rule.

As defined by A.R.S. § 11-445(H), a private process server:

. . . may serve all process, writs, orders, pleadings or papers required or permitted by law to be served prior to, during, or independently of a court action, including all such as are required or permitted to be served by a sheriff or constable, 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 rule established by the supreme court. A private process server is an officer of the court.

“Program coordinator” means the staff appointed by the director to administer the program.

“Provisional Certification” means a temporary certificate issued by the presiding judge which expires 120 days after the presiding judge grants it.

“Revoked” means the permanent invalidation or cancellation of a private process server's certificate.

“Standard Certification” means a certificate issued by the presiding judge once an applicant meets all the requirements for certification of a private process server.

“Suspended” means 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 disciplinary action.

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

**B. Applicability.** This code section applies to the certification of private process servers pursuant to A.R.S. § 11-445(H) and the Arizona Rules of Civil Procedure. This code provision 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 § 7-201, General Provisions, of the Arizona Code of Judicial Administration. For uniformity, consistency and ease of reading the term “certification” refers to either certification or registration.

**C. Purpose.** For eligibility to act as a private process server in Arizona, all persons shall obtain certification and comply with the requirements of A.R.S. § 11-445(H), the Arizona Rules of Civil Procedure, administrative orders and this administrative code section adopted by the Arizona Supreme Court to govern private process servers. Certified private process servers may serve all process, writs, orders, pleadings or papers required or permitted by law for service prior to, during, or independent of a court action, including all documents required or permitted for service by a sheriff or constable, 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 Arizona Rules of Civil Procedure 4(e), a certified “. . . private process server . . .” is

“ . . . entitled to serve in such capacity for any court of the state anywhere within the State.”

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

1. **Role and Responsibilities of the Administrative Director.** The director shall have the authority to approve or disapprove matters of administration of the Private Process Server Program that involve the expenditure of program funds. The director may vest in any other person, acting in the director's name and by delegated authority, the authority to exercise or discharge any power, duty or function, normally belonging to the director, whether ministerial or discretionary.
2. **Role and Responsibilities of the Program Coordinator.** The director shall designate a program coordinator. The program coordinator is responsible for the administration of the Private Process Server Program in compliance with the law, Arizona Rules of Court, and Arizona Supreme Court administrative orders and this code section. The program coordinator may delegate any duties and responsibilities to staff.
  - a. The program coordinator shall perform tasks of administration of the Private Process Server Program to assist in the decentralized administration of the program in each county in Arizona. The program coordinator shall provide updates to the clerk of the superior court; make recommendations regarding matters pertaining to certification, complaints and investigations; and all other matters relevant to certified private process servers.
  - b. The program coordinator shall maintain a list of certified private process servers and shall post this list on the judicial department website. The judicial department website shall include each certificate holder's name and certificate number. The program coordinator may charge for the costs of providing copies of the certification list or any other public records of the program.
3. **Role and Responsibilities of the Clerks of the Superior Court.** The clerk of the superior court in each county is responsible for distributing and accepting applications and application materials, administering and grading examinations, maintaining records, including the register of certified process servers pursuant to Rule 4(e), Arizona Rules of Civil Procedure, accepting fee payments, coordinating the receipt of application materials for the presiding judge, notifying the program coordinator of certificates issued, changes of address, renewals, complaints, investigations and final decisions regarding discipline.
  - a. The clerk of the superior court in each county may assign any duties and responsibilities to staff. Annually the clerk shall file a letter with the program coordinator, naming the staff assigned responsibility for administering the Private Process Server Program along with a current address, phone number and e-mail address of each staff member.
  - b. The clerk of the superior court in each county shall report quarterly to the program

coordinator all additions, deletions and revisions in the certification list. The clerk of the superior court shall maintain a current certification list of all private process servers of certificate holder status on a form approved by the director.

- c. The clerk of the superior court in each county shall provide a quarterly report listing all complaints, investigations pending completion and informal and formal disciplinary proceedings to the program coordinator who will maintain the information for use by the presiding judges as needed.
  - d. The clerk of the superior court in each county shall notify the presiding judge if it appears a private process server has violated this code section.
4. **Role and Responsibilities of the Presiding Judges of the Superior Court.** The presiding judge in the county of residence of the applicant, where the applicant applies for certification, is responsible for reviewing all application materials including criminal history information. The presiding judge is also responsible for granting or denying certification to private process servers and granting or denying reexamination on a previously failed examination. The presiding judge receives complaints pursuant to subsection H of this code section, and investigates, initiates and adjudicates disciplinary proceedings. The presiding judge may vest in another person 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 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 Rule 4(d), Arizona Rules of Civil Procedure;
  - b. Any party to an action or that party's attorney serving process pursuant to Rule 4(d), Arizona Rules of Civil Procedure; and
  - c. Any person serving a subpoena pursuant to Rule 45, Arizona Rules of Civil Procedure.

2. Qualification for Application. Any person if qualified pursuant to subsection E(2)(a) or (b) of this code section may apply for certification.

a. Qualification for Individual Certification. To become certified or eligible for certification an applicant shall meet the eligibility requirements and fulfill all the requirements of subsection E(2)(c)(1) through (7) of this code section and, pursuant to Rule 4(d) and Rule 4(e), Arizona Rules of Civil Procedure:

- (1) “. . . has been a bona fide resident of the State of Arizona for at least one year immediately preceding the application . . .” for certification; and
- (2) “. . . shall be not less than twenty-one (21) years of age . . . .”

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 apply for certification and demonstrate the ability to pass the examination and meet certification criteria. As provided in A.R.S. § 11-445(H), a government employee shall submit a completed fingerprint card and pay the applicable fees pursuant to subsection E(2)(c)(4) of this code section. 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 of the superior court pursuant to subsection E(4) of this code section.
- (3) Government employee process servers who serve process in any capacity outside the scope of employment as a government employee process server shall obtain certification pursuant to this code section and shall follow all policies that apply to private process servers when serving process outside the scope of employment as a government employee process server.

c. Procedures for Application. To apply for certification, an applicant shall:

- (1) Provide a completed application for certification on an approved form obtained from and filed with the clerk of the superior court in the county of residence of the applicant. The applicant shall sign the application and have it duly verified under oath;
- (2) Execute an affidavit stating, pursuant to Rule 4(e), Arizona Rules of Civil Procedure “. . . that the applicant will well and faithfully serve process in accordance with the law . . .” and the applicant is and was a legal resident of the State of Arizona for at least one year prior to application and has continually resided in Arizona during this time period. The affidavit may include relevant language stating the applicant understands the need to be available to testify and that providing testimony regarding the service of process is a common and inherent duty to this profession;
- (3) Pass an examination administered by the clerk of the superior court as prescribed in

subsection E(3) of this code section;

(4) Pursuant to A.R.S. § 11-445(H):

. . . furnish 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 shall 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 of the superior court with a readable fingerprint card. The applicant shall pay all costs or fees attributable to any subsequent re-fingerprinting and resubmission of fingerprints due to unreadable prints. The applicant shall only use the fingerprint card issued in the application packet. A law-enforcement agency shall perform the fingerprinting;
  - (b) The clerk of the superior court shall submit completed applicant fingerprint cards and the fees to the Arizona Department of Public Safety (ADPS). Pursuant to A.R.S. § 11-445(H), “. . . The department of public safety is authorized to 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 of the superior court 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 of the superior court shall refuse to accept the application;
- (5) Upon the request of the presiding judge or designee, provide additional background information;
- (6) Pay all fees as authorized by law to the clerk of the superior court pursuant to A.R.S. § 12-284; and
- (7) Provide two color photographs, (2" X 2"), and references as required by policy adopted by the director.

### 3. Examination.

- a. Initial Examination. Each applicant for certification or renewal shall personally take and pass the examination provided by the director and administered and scored by the clerk of the superior court. The clerk of the superior court shall give each applicant an initial

examination.

- b. Reexamination. If the applicant fails the initial examination, the applicant may sit for one reexamination. The examination provided to the applicant for reexamination shall be a different examination than the one the applicant used for the initial examination. The applicant shall take the reexamination within 90 days of the date of filing the application. If the applicant fails the reexamination, the applicant shall wait 90 days from the date of the reexamination to submit a request for an additional reexamination pursuant to subsection E(3)(b)(1) of this code section.

- (1) The applicant may submit a request in writing addressed to the presiding judge requesting consideration for an opportunity to reapply and sit for the examination an additional time. Proof of attendance and satisfactory completion shall accompany the written request for a course of study specific to the private process server profession. If the presiding judge approves reexamination, the entire application process begins again, including the payment of fees. The presiding judge has the discretionary authority to deny or approve a request for reexamination.

- c. The director shall provide multiple versions of the examination to the clerk of the superior court, and the clerk of the superior court may not use any other examinations. Applicants and the public may not obtain copies of the examination.

- d. The director shall establish the passing score on the examination.

- e. The clerk of the superior court shall communicate the applicant's examination score verbally or in writing to the applicant not more than ten days from the date the applicant took the examination. If the applicant passes the examination, the applicant will receive the examination score. If the applicant fails the examination, the clerk of the superior court shall provide the applicant with the examination score, an indication of the general areas of the statutes, rules, code sections and case law where the applicant missed questions, and the procedures for reexamination.

- (1) An applicant may, on written request, review the applicant's examination papers and grades under the terms and conditions prescribed by the director.

- (a) The applicant shall not copy materials provided for the applicant's review.

- (b) The applicant shall conduct the review during business hours in the presence of program staff.

- 4. Decision Granting Provisional and Standard Certification. If the presiding judge is satisfied an applicant meets the qualifications for certification, the clerk of the superior court, upon order of the judge, shall promptly issue certification with an identification card to an applicant qualified for certification in accordance with this code section. Pursuant to Rule 4(e), Arizona Rules of Civil Procedure:

- . . . upon approval of the court or presiding judge thereof, . . . the applicant

shall . . . be registered with the clerk as a private process server until such approval is withdrawn by the court in its discretion. The clerk shall maintain a register for this purpose. The private process server shall be entitled to serve in such capacity for any court of the state anywhere within the State.

- a. Provisional Certification. The presiding judge may grant provisional certification pending receipt of the information requested in the criminal history record check if the applicant provides a completed application, fingerprint card and successfully passes the examination, pursuant to this code section. Before granting provisional certification, the presiding judge may require additional background information reasonably necessary to determine if the applicant meets the qualifications specified in this code section. Provisional certification shall expire 120 days after it is granted unless the presiding judge extends the time period at the judge's discretion.
- b. Standard Certification. Upon receipt of the state and national criminal history records checks, pursuant to the A.R.S. §§41-1750 and -1758 and applicable federal laws, the presiding judge shall consider the information and grant or deny the standard certification. Before granting standard certification, the presiding judge may require additional background information reasonably necessary to determine if the applicant meets the qualifications specified in this code section.
- c. The presiding judge may transfer the certification of an individual to the county of residence or another county if appropriate.

5. Denial of Certification.

- a. The presiding judge may refuse to certify an applicant if one or more of the following is found:
  - (1) Material misrepresentation or fraud in the application for or attempt to obtain certification;
  - (2) A record of any act constituting dishonesty 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 repeated complaints by the public or the court;
  - (5) A record of conviction by final judgment of a misdemeanor or felony;
  - (6) A record of denial, revocation, suspension or any censure of any occupational license of the applicant by any federal, state or local government;
  - (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 not submitted fingerprints pursuant to subsection E(2)(c)(4) and the presiding judge has not received and reviewed the criminal background

analysis; or

(10) The applicant has violated any Arizona law, Arizona Rules of Court and this code section or court orders governing private process servers.

- b. An applicant's failure to disclose information on the application that is subsequently revealed through the fingerprint background check may constitute good cause for the presiding judge to automatically deny certification.
- c. **Mandatory Denial.** The presiding judge shall refuse to certify the applicant if the applicant does not meet the qualifications or eligibility requirements.
- d. The presiding judge shall promptly notify 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 this code section, on the decision to deny certification upon 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. Role and Responsibilities of Certificate Holders.**

- 1. **Code of Conduct.** Each certified process server shall adhere to the code of conduct incorporated as Appendix A.
- 2. **Conflict of Interest.** Pursuant to Rule 4(d), Arizona Rules of Civil Procedure, “. . . a private process server . . . “ “. . . shall not be a party, an attorney, or the employee of an attorney in the action whose process is being served.”
- 3. **Identification Cards.**
  - a. The identification card is the only official process server identification the court shall issue pursuant to subsection E(4) of this code section. A certified process server shall 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 report lost or stolen cards to the issuing clerk of the superior court within three days of discovery of the loss. Upon filing an affidavit of loss with the clerk of the superior court and payment of any applicable fee, the clerk of the superior court shall issue a replacement card.
  - c. Upon suspension or revocation of certification, the certificate holder shall surrender the issued identification card to the clerk of the superior court within three days.

4. Change of Name or Address. All certificate holders shall notify the clerk of the superior court in the county of certification of any change in the legal name, business address, mailing address or home address or phone number of the certificate holder within 30 days of any change.
5. Assumed Name. A certificate holder shall 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 pay all required fees for certification, examination and renewal of certification. The clerk of the superior court shall collect in advance these fees, which are non-refundable. Pursuant to A.R.S. § 11-445(H), “. . . 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 complete ten hours of continuing education each twelve months and shall submit documentation of completion of this continuing education on a form approved by the director with the application for renewal of certification. Certified private process servers shall complete continuing education classes that are relevant to the work of a process server, pursuant to policies adopted by the director.
8. Employment Status of Private Process Servers.
  - a. Certified private process servers are not employees of 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 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 of Certification.
  - a. All certificates expire at midnight, every three years from date of issuance. All certifications shall continue in force until expired, suspended, revoked or terminated. A certificate shall expire as of the expiration date unless the certificate holder submits a renewal application and pays the accompanying fees by the expiration date. When a private process server has filed a completed application for renewal prior to the expiration of the existing certification, the existing certification does not expire until the presiding judge has approved or denied the application.
  - b. 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.
- c. The presiding judge shall treat a renewal application filed after the expiration date as a new application.
  - d. The expiration provisions described in subsection G(1)(a) of this code section does 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 may voluntarily surrender a certificate, however, this surrender is not valid until accepted by the presiding judge. The presiding judge may require additional information which is reasonably necessary to determine if the certificate holder has violated this code section. The presiding judge shall, within 120 days of the voluntary surrender of the certification, either file a notice of hearing regarding a complaint and disciplinary action, or accept the surrender.
  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, providing two color photographs (two inches by two inches) and submitting documentation of completion of the required hours of continuing education pursuant to subsection of this code section. The applicant shall file the application with the clerk of the court in the county of residence of the applicant.
  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 and background information.

## 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) of this code section, the presiding judge shall 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(5) of this code section. The presiding judge shall promptly notify all applicants granted renewal of certification.
- b. The presiding judge shall promptly notify 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 this code section, on the decision to deny renewal of certification upon 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.

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

1. Complaint. The presiding judge may initiate or accept complaints concerning private process servers and initiate disciplinary action. The county where the basis for the complaint or discipline occurred shall handle all complaints filed against private process servers. All judicial officers and their designee shall, and any person may, notify the presiding judge if it appears a certificate holder has violated this code section. A complainant shall make the complaint in writing with sufficient specificity to warrant further investigation. The complaint shall include the name and telephone number of the complainant.
  - a. A certificate holder is subject to disciplinary action if the presiding judge finds one or more of the following applies to the certificate holder:
    - (1) Wilful violation of or wilful noncompliance with a court order, any court rule, Arizona law, or this code section;
    - (2) The existence of any cause for which original certification or any renewal of the certification could have warranted denial as described in subsection E(5) or G(5) of this code section;
    - (3) Failure to perform any duty to discharge any obligation required by this code section;
    - (4) Violation of any federal or state statute, administrative order, rule, code provision or policy regarding service of process or regulating the profession;
    - (5) Falsification or misrepresentation of any document potentially filed with the court;
    - (6) Engaging in the practice of law or otherwise providing legal advice while serving process;
    - (7) Advertising or otherwise representing services in a false, fraudulent or misleading manner;
    - (8) Display of a uniform, title, insignia, badge, business card, identification card or other means of identification or making a statement that would lead a person to

believe the certificate holder is an employee of the federal government, state government or any political subdivision of state government unless authorized by proper authorities to do so;

- (9) Use of letterhead, business cards, or advertising on any media in any manner to represent the certificate holder is an employee of the federal government, state government or any political subdivision of a state government unless authorized by proper authorities to do so;
  - (10) Failure to display the identification card issued to persons who may have reasonable cause to verify the validity of the certification;
  - (11) Failure to cooperate in an inquiry, investigation or disciplinary action by:
    - (a) Not furnishing papers or documents;
    - (b) Not furnishing in writing a full and complete explanation of a matter contained in a complaint when requested;
    - (c) Not responding to subpoenas issued, regardless of whether the recipient of the subpoena is accused in the proceeding;
  - (12) Commission of any act involving moral turpitude, dishonesty or corruption whether or not the act constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action;
  - (13) Unprofessional conduct, including the failure to exercise appropriate judgment regarding service of process; and
  - (14) Wilful violation or wilful noncompliance of any other provision of the Code of Conduct.
2. Initial Screening. The presiding judge shall 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 dismiss the complaint. The presiding judge may refer the complaint to another state agency or entity with jurisdiction, if appropriate.
  3. Preliminary Investigation. If warranted, the presiding judge shall have a prompt, discreet and confidential investigation of the complaint made.
  4. Request for Response from Certificate Holder. The presiding judge shall have the complaint sent to the certificate holder within a reasonable period of time after commencement of the investigation and shall require the certificate holder provide a written response. The presiding judge shall not proceed with disciplinary action under this code section without providing this notice and the opportunity to respond.
  5. Review of Complaint and Investigation. Upon completion of an investigation, the presiding judge may:
    - a. Determine no violation exists and dismiss the complaint;
    - b. Order further investigation;

- c. Determine the complaint is appropriate for resolution without proceeding to formal disciplinary proceedings; or
  - d. Determine there is probable cause for belief in the existence of facts warranting formal disciplinary proceedings.
6. **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 a summary suspension of the certification of a certificate holder pending proceedings for revocation or other action. The presiding judge shall institute these proceedings within 30 days of the issuance of the emergency suspension order. Upon order of the presiding judge, the clerk of the superior court shall immediately notify all judges of the superior court, other clerks of the superior court and the program coordinator of any summary suspension of a certificate holder.
7. **Confidentiality.** Information or documents obtained or generated by the presiding judge, clerk of the superior court, director, program coordinator or court employees during an open investigation or received in an initial report of misconduct are confidential except as mandated public record by the Arizona Supreme Court Rules. Upon determination a complaint requires formal disciplinary action and upon resolution of any complaint or investigation, records obtained during the investigation become open and are available for public inspection.
8. **Formal Disciplinary Proceedings.**
  - a. **Commencement.** The presiding judge may commence formal proceedings if the judge finds reasonable 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 commencement of formal proceedings, select a hearing officer or other appropriate designee, pursuant to subsection H(10) of this code section. For uniformity, consistency and ease of reading, the term Ahearing officer@ throughout this code section regarding disciplinary action refers to the presiding judge, or the hearing officer or other officer designated by the presiding judge.
  - b. **Notice to Certificate Holder.** The presiding judge shall 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 this code section. This notice shall comply with the provisions of subsection H(12) of this code section.

9. Request for Hearing. All demands for hearing shall 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 this code section, or upon written demand by a person entitled to a hearing, pursuant to this code section.
11. Time line for Hearing. The hearing officer shall ensure 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 hold the hearing as soon as practical at the discretion of the hearing officer.
12. Notice of Hearing. The hearing officer shall prepare and give the parties notice of the hearing at least fifteen days prior to the date set for the hearing. The notice shall 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 basis supporting the relief requested. Amendments to the statement are permissible; and
  - e. If the hearing date has not previously been set, a statement indicating the certificate holder will be afforded a hearing upon request 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 be filed with the hearing officer. Service by mail is complete upon deposit in the United States mail.
  - g. If a party is represented by an attorney, the attorney shall receive service.
13. Filings, Answers and Pleadings. A party shall file answers to notices within ten days after the date the notice is served, unless otherwise ordered by the hearing officer. Answers shall

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 determine any defenses not raised in the answer are waived.

- a. Parties shall file all motions at least five days prior to the scheduled hearing date, unless otherwise ordered by the hearing officer.
- b. Parties shall file responses to motions within five days of the filing of the motion.
- c. The hearing officer and all parties to the proceeding shall receive copies of all filings.
- d. All filings shall 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 mutually agreed to by the parties or permitted by the hearing officer.
- b. The hearing officer, upon written request, shall 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, provided the evidence is not privileged.
- c. The hearing officer, on the hearing officer's motion or upon request, may require, prior to hearing, the disclosure of 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 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 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 be issued. The subpoena and order shall 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 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 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 hearing officer shall preside over the hearing. The hearing officer shall have 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 themselves or appear through counsel. An attorney who intends to appear on behalf of a party shall 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 conform to the conduct expect 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 require evidence supporting a decision is substantial, reliable and probative and shall 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 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 ensure 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 pay the cost of the transcript.
- (2) A competent court reporter shall 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 receive a copy of the stenographic record, at the request and expense of the party. If no request is made for a stenographic record, the hearing officer shall ensure 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 written request of a party to a hearing filing the request with the hearing officer. The party shall make the request within fifteen days after any order made pursuant to a hearing was mailed or delivered to the person entitled to receive the order. The hearing officer shall decide to grant or deny the request within 30 days of the date of filing of the request. A party shall base the request for rehearing or review upon 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 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 render the final decision within 30 days of the closing of the record of a hearing. The hearing officer shall render the final decision in writing and shall include findings of fact and conclusions of law, separately stated. If set forth in statutory language, a concise and explicit statement of the underlying facts shall accompany findings of fact. Parties shall receive notice of any decision or order either personally or by certified mail return receipt to the last known address.

20. Possible Actions.

- a. Upon completion of an investigation concerning alleged misconduct by a certificate

holder, which may or may not include a hearing, the hearing officer shall do one or more of the following:

- (1) Determine no violation exists and dismiss the complaint;
  - (2) Mandate additional training;
  - (3) Issue a letter of concern or warning;
  - (4) Place restrictions on a certificate;
  - (5) Suspend a certificate for a period not to exceed three years,
  - (6) Revoke a certificate; or
  - (7) Any other action the hearing officer determines appropriate, including return or refund of service fees to a harmed person or entity. This shall not include imposition of a fine.
- b. The hearing officer may resolve a violation by consent order or other negotiated settlement between the parties. This order or settlement may include any of the actions listed in subsection H(20)(a) of this code section.
- c. The hearing officer shall issue an order specifying in what manner and to what extent any failure or violation is found and any sanctions pursuant to this code section. Any disciplinary action shall have effect statewide. The clerk of the superior court shall, within ten days of any such action, notify in writing each clerk of the superior court and the program coordinator of the action taken and of any subsequent changes in the status of the individual's approval to serve process.

#### 21. Procedure after Suspension or Revocation.

- a. Upon suspension or revocation of any certification the presiding judge shall 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 program coordinator. Notice by mail is complete upon deposit in the United States mail.
- b. The presiding judge shall 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 applicable provisions of this code section.

#### 22. Judicial Review. Decisions of the presiding judge, hearing officer or other designee regarding certification, renewal of certification or disciplinary action pursuant to this code section are final. Parties may seek judicial review through a petition for a special action pursuant to the Arizona Rules of Procedure for Special Actions.

**APPENDIX “A”**  
**CODE OF CONDUCT**

**Section 7-204: Private Process Server**  
**Appendix A**  
**Code of Conduct**

**Preamble.** The Arizona Supreme Court adopts the following Code of Conduct to apply to all private process servers pursuant to A.R.S. § 11-445(H), 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.

**Standard 1. Rules and Applicable Laws.** The private process server shall 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 as adopted by the Arizona Supreme Court governing the certification of private process servers.

- a. The private process server shall promptly file an affidavit of service or certificate of service or return the unserved documents.

**Standard 2. Skills and Knowledge.** The private process server shall demonstrate adequate skills and knowledge to perform the work of a private process server, and shall seek training opportunities to maintain professional competency and growth.

- a. The private process server has an obligation to have knowledge and keep informed of all current and applicable laws regarding the service of process.
- b. The private process server has a responsibility to maintain a working knowledge of proper methods of service.
- c. The private process server shall possess the necessary verbal and written communication skills sufficient to perform the private process server role.
- d. The private process server shall manage service proficiently. Skills required include those necessary to perform the service, maintain records and communicate with the client in a timely fashion.
- e. The private process server shall keep the client reasonably informed about the status of the service and promptly comply with reasonable requests.
- f. The process server shall ensure all affidavits and certificates prepared by the private process server are complete, accurate and understandable and are timely filed with the court.

**Standard 3. Professionalism.** The private process server shall 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 utilize professional judgment and discretion at all times.

- a. The private process server shall 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 private process server for the purpose of increasing skill level and successful service of process.
- c. The private process server shall abstain from providing or offering to provide legal advice.
- d. The private process server shall not violate any rules adopted by the Arizona Supreme Court or conduct themselves 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 respect the confidentiality of information and shall preserve the clients' confidences; this duty outlasts the employment of the private process server.
- f. The private process server shall maintain a professional appearance at all times.
- g. The private process server shall be courteous and polite in all dealings and shall abstain from using profanity or vulgarity in contact with others.
- h. The private process server shall never attempt to decide the merits of a lawsuit. The private process server shall never engage in any unnecessary discussions regarding the action being served, with the persons receiving service. It is only necessary for the private process server to explain the general nature of the served papers.
- i. The private process server shall know the protocol for service of process in a court building before proceeding with service and shall take appropriate steps to avoid impairing security or creating a security issue in a court building.

**Standard 4. Ethics.** The private process server shall 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 perform the service of process in a professional manner, utilizing sound judgment and avoid rudeness and unprofessional conduct.

- b. The private process server shall present service in a nonjudgmental manner.
- c. The private process server shall 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 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 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.

**ADMINISTRATIVE DIRECTIVE NO. 2003-01**

**CONTINUING EDUCATION POLICIES**

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
CONTINUING EDUCATION	)	Administrative Directive
POLICIES: PRIVATE PROCESS	)	<u>No. 2003- 01</u>
SERVER PROGRAM	)	(In compliance with Arizona Code
<hr/>	)	of Judicial Administration § 7-204)

The Arizona Code of Judicial Administration, § 7-204: Private Process Server, as adopted by the Arizona Supreme Court via Administrative Order No. 2002-110, governing the certification of private process servers, took effect on January 1, 2003, Pursuant to § 7-204(F) (7), all certified process servers must complete ten hours of continuing education every twelvemonths. Further, § 7-204 (F) (7) specifies that certified private process servers shall complete continuing education hours that are relevant to the work of a process server, pursuant to policies adopted by the Administrative Director of the Courts.

Now, therefore, pursuant to the Arizona Code of Judicial Administration § 7-204,

IT IS ORDERED that the above captioned policies, attached hereto, including Appendix A, Continuing Education Forms, are adopted.

Dated this 14th day of January, 2003.

David K. Byers  
Administrative Director

**SECTION § 7-204: PRIVATE PROCESS SERVER CERTIFICATION  
CONTINUING EDUCATION POLICIES**

**A. Purpose.**

1. 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.
2. Pursuant to the Arizona Code of Judicial Administration § 7-204: Private Process Server, (hereafter referred to as “Code Section”) all certified private process servers must complete continuing education every twelve months. Further, § 7-204(F)(7) specifies that certified private process servers shall complete continuing education hours that are relevant to the work of a process server, pursuant to policies adopted by the Administrative Director of the Courts. These policies are intended to provide direction to certified private process servers, and to the Presiding Judges and Clerks of the Superior Court who administer the Private Process Server Program in each county; to ensure compliance with Code Section § 7-204 regarding continuing education credits, and to provide for equitable application and enforcement of the continuing education requirements.

**B. Applicability.**

1. Pursuant to Code Section § 7-204(F)(7) all certified private process servers shall complete at least ten hours of approved continuing education every twelve months. The private process server shall submit documentation of completion of the continuing education on an approved form, with the application for renewal of certification. Pursuant to Code Section G(1)(a), a renewal period is for three years, from the date of issuance of the certificate.
2. Effective Date. Beginning January 1, 2003, and for every renewal of certification after that date, all certified private process servers shall comply with these adopted policies regarding continuing education.

**C. Responsibilities of Certified Private Process Servers.**

1. It is the responsibility of each certified private process server to ensure compliance with the CE requirements, maintain documentation of completion of CE and to submit this documentation with the renewal application.
2. Upon request, each certified private process server shall provide any additional information required by the presiding judge when the judge is reviewing CE applications and

documentation.

3. If an activity has not been pre-approved, the rejection of an activity completed by a private process server and submitted with the application for renewal does not in any way diminish the responsibility of the process server to comply with the CE requirement.

#### **D. Authorized Continuing Education Activities**

1. CE activity shall address the areas of proficiency, competency and performance of and impart knowledge and understanding of the service of process, the Arizona judiciary and the legal process and increase the participant's understanding of the responsibilities of a certified private process server and the process server's impact on the judicial process. Acceptable topics for CE activities include:
  - a. 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.
  - b. 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.
  - c. Role and responsibilities of the certified private process server including Code Section § 7-204.
  - d. Persons developing and presenting CE activities shall 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 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 activity shall specify for whom the program is primarily designed, the course objectives, course content and teaching methods. All CE activity shall be conducted in an organized setting free from distractions.
2. 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:
  - a. Arizona Private Process Servers Association (APPSA);

- b. Arizona Supreme Court Committee on Judicial Education and Training (COJET);
  - c. United States Private Process Servers Association (USCRA);
  - d. Arizona Courts Association (ACA); and
  - e. National Association of Court Management (NACM).
3. Sponsoring Entities. Unless a CE activity has been pre-approved, entities wishing to administer a CE activity shall submit the proposed CE activity on the approved form, to the program coordinator 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 activity has been completed or conducted will be rejected.
- a. At a minimum, the proposal shall meet all requirements of this policy and shall include the following:
    - (1) location, date and time of the proposed activity;
    - (2) proposed audience;
    - (3) course content, objectives, teaching methods and the evaluation method;
    - (4) names and qualifications of the faculty;
    - (5) written materials for the participants (a copy of the materials shall be included with the proposal); and
    - (6) number of CE credits the sponsoring entity is recommending the AOC grant for completion of the activity.
  - b. In addition, the proposal shall include a statement that the sponsor agrees to assume responsibility for verifying attendance of the participants; will provide a certificate of attendance for each participant who successfully completes the activity and that upon request of the AOC, will provide any additional information requested to assist the AOC in evaluating whether to approve the activity or to ensure compliance with this policy.
4. Serving as Faculty. CE credit may be granted for serving as faculty, an instructor, speaker or panel member of an approved CE seminar directly related to the service of process. CE 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 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 credit for actual presentation time for duplicate programs presented in subsequent renewals periods; but will not be granted CE credit for preparation time for those programs.
5. Authoring or Coauthoring Articles. CE 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 credit may be earned for authoring an article or articles in any one renewal period. Credit shall not be granted for the same article published in more than one publication or republished in the same publication in later editions.

6. University, College and Other Educational Institution Courses. A certified private process server may receive CE 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 credit upon documentation 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 maximum total of CE credits for completion of courses pursuant to this subsection shall not exceed 50 percent of the total number of CE hours required for the renewal period.
7. Minimum Time. Each CE activity shall consist of at least 30 minutes of “actual clock time” spent by a registrant in actual attendance at and completion of an approved CE activity. “Actual clock time” is 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 activity, credit may be given in fifteen minute increments. A process server may not use additional earned CE credits for subsequent renewal periods.
8. Maximum Credit. Unless a CE 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 period through one activity.
9. Conferences. CE 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 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. Credit will not be granted for attendance at general sessions of the conference.
10. 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 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.
11. Documentation of Attendance or Completion. When attending or completing a CE activity, each process server shall obtain documentation of attendance or completion from the sponsoring entity.
  - a. At a minimum, this documentation shall include the:

- (1) name of the sponsor;
  - (2) name of the participant;
  - (3) topic of the subject matter;
  - (4) number of hours actually attended or the number of credit hours awarded by the sponsoring entity;
  - (5) date and place of the program;
  - (6) signature of the sponsor, or the documentation shall be an official document of the sponsoring entity; for example, a college grade report, etc.; and
  - (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.
- b. A process server shall not request and credit shall not be granted if the process server attends part, but not all of the provided activity.
- c. Process servers requesting CE credit for self study shall submit documentation of completion on an approved form.

#### **E. Non-Qualifying Activities.**

1. The following activities, regardless of whether or not the activity is approved for COJET credit shall not qualify for CE 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.

#### **F. Decision Regarding Continuing Education Credits.**

1. Upon a review of an application for renewal of certification and the required accompanying CE documentation, the presiding judge may:
  - a. Approve the CE credit;
  - b. Approve part, but not all of the requested CE credit;
  - c. Require additional information from the requester before making a decision; or
  - d. Deny the CE credit.

2. The private process server shall be notified of the decision regarding the CE credit.

**G. Compliance and Non-Compliance.**

1. An applicant for renewal of certification maybe requested to supply additional information to verify compliance with the CE requirements. If the applicant fails to provide the requested information, the presiding judge may automatically deny the CE credit.
2. Pursuant to Code Section § 7-204(H)(1); a certified private process server who fails to meet the CE requirement, falsifies CE documents, or willfully misrepresents CE activities and attendance at CE activities is subject to denial of renewal of certification, disciplinary action, or both.

*Adopted January 14, 2003, Administrative Directive 2003-01*

**ARIZONA REVISED STATUTES**

**§ 11-445**

**Arizona Revised Statutes § 11-445**  
**Fees Chargeable in Civil Actions by Sheriffs, Constables and Private Process Servers; Authority of Private Process Servers; Background Investigation; Constables' Logs**

- A. The sheriff shall receive the following fees in civil actions:
1. Serving each true copy of the original summons in a civil suit, sixteen dollars, except that the sheriff shall not charge a fee for service of any document pursuant to section 13-3602 or any injunction against harassment pursuant to section 12-1809 if the court indicates the injunction arises out of a dating relationship.
  2. Summoning each witness, sixteen dollars.
  3. Levying and returning each writ of attachment or claim and delivery, forty-eight dollars.
  4. Taking and approving each bond and returning it to the proper court when necessary, twelve dollars.
  5. Endorsing the forfeiture of any bond required to be endorsed by him, twelve dollars.
  6. Levying each execution, twenty-four dollars.
  7. Returning each execution, sixteen dollars.
  8. Executing and returning each writ of possession or restitution, forty-eight dollars plus a rate of forty dollars per hour per deputy for the actual time spent in excess of three hours.
  9. Posting the advertisement for sale under execution, or any order of sale, twelve dollars.
  10. Posting or serving any notice, process, writ, order, pleading or paper required or permitted by law, not otherwise provided for, sixteen dollars.
  11. Executing a deed to each purchaser of real property under execution or order of sale, twenty-four dollars.
  12. Executing a bill of sale to each purchaser of real and personal property under an execution or order of sale, when demanded by the purchaser, sixteen dollars.
  13. For services in designating a homestead or other exempt property, twelve dollars.
  14. For receiving and paying money on redemption and issuing a certificate of redemption, twenty-four dollars.
  15. Serving and returning each writ of garnishment and related papers, forty dollars.
  16. For the preparation, including notarization, of each affidavit of service or other document pertaining to service, eight dollars.
- B. The sheriff shall also collect the appropriate recording fees if applicable and other appropriate disbursements.
- C. The sheriff may charge:
1. Fifty-six dollars plus disbursements for any skip tracing services performed.
  2. A reasonable fee for storing personal property levied on pursuant to Title 12, Chapter 9.
- D. For traveling to serve or on each attempt to serve civil process, writs, orders, pleadings or papers, the sheriff shall receive two dollars forty cents for each mile actually and necessarily traveled but, in any event, not to exceed two hundred miles, nor to be less than sixteen dollars. Mileage shall be charged one way only. For service made or attempted at the same time and place, regardless of the number of parties or the number of papers so served or attempted, only one charge for travel fees shall be made for such service or attempted service.
- E. For collecting money on an execution when it is made by sale, the sheriff and the constable shall

receive eight dollars for each one hundred dollars or major portion thereof not to exceed a total of two thousand dollars, but when money is collected by the sheriff without a sale, only one-half of such fee shall be allowed. When satisfaction or partial satisfaction of a judgment is received by the judgment creditor after the sheriff or constable has received an execution on the judgment, the commission is due the sheriff or constable and is established by an affidavit of the judgment creditor filed with the officer. If the affidavit is not lodged with the officer within thirty days of the request, the commission shall be based on the total amount of judgment due as billed by the officer and may be collected as any other debt by that officer.

- F. The sheriff shall be allowed for all process issued from the supreme court and served by the sheriff the same fees as are allowed the sheriff for similar services upon process issued from the superior court.
- G. The constable shall receive the same fees as the sheriff for performing the same services in civil actions, except that mileage shall be computed from the office of the justice of the peace originating the civil action to the place of service.
- H. Private process servers duly appointed or registered pursuant to rules established by the supreme court may serve all process, writs, orders, pleadings or papers required or permitted by law to be served prior to, during or independently of a court action, including all such as are required or permitted to be served by a sheriff or constable, 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 rule established by the supreme court. A private process server is an officer of the court. As a condition of registration, the supreme court shall require each private process server applicant to furnish 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 shall 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. The department of public safety is authorized to exchange the submitted applicant fingerprint card information with the federal bureau of investigation for a federal criminal records check. 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.
- I. Constables shall maintain a log of work related activities including a listing of all processes served and the number of processes attempted to be served by case number, the names of the plaintiffs and defendants, the names and addresses of the persons to be served except as otherwise precluded by law, the date of process and the daily mileage.
- J. The log maintained in subsection I of this section is a public record and shall be made available by the constable at the constable's office during regular office hours. Copies of the log shall be filed monthly with the clerk of the justice court and with the clerk of the board of supervisors.

**RULE 4(e)**

**ARIZONA RULES OF CIVIL PROCEDURE**

## ARIZONA RULES OF CIVIL PROCEDURE

### **Rule 4. Process.**

#### **Rule 4(e) State-wide Registration of Private Process Servers.**

A person who files with the clerk of the court an application approved by the Supreme Court, stating that the applicant has been a bona fide resident of the State of Arizona for at least one year immediately preceding the application and that the applicant will well and faithfully serve process in accordance with the law, and who otherwise complies with the procedures set forth by the Supreme Court in its Administrative Order regarding this subsection, shall, upon approval of the court or presiding judge thereof, in the County where the application is filed, be registered with the clerk as a private process server until such approval is withdrawn by the court in its discretion. The clerk shall maintain a register for this purpose. Such private process server shall be entitled to serve in such capacity for any court of the state anywhere within the State.

*Added April 16, 1991, effective July 1, 1991. Amended Feb. 2, 1993, effective June 1, 1993.*