



1 11 March 2024

2 Arizona Judicial Council
3 Arizona State Courts Building
4 1501 W. Washington Street
5 Phoenix, AZ 85007

6 Comment re: ACJA 7-204: Private Process Server

7 The Arizona Process Servers Association (APSA) provides continuing education
8 and advocacy for its members and others on the rules, regulations, statutes, and
9 case law affecting service of legal process within and outside of Arizona.

10 On 20 February 2024, a special meeting of the Board of Directors of the Arizona
11 Process Servers Association was convened. The Board directed a response to the
12 changes proposed by the Certification & Licensing Division on 09 February 2024.

13 On behalf of the Arizona Process Servers Association, the undersigned submits the
14 following comments on the proposed rule changes for ACJA 7-204: Private
15 Process Server. (Line numbers are included for reference.)

16 The latest proposed changes appear to turn Administrative Order (A.O.) No. 2023-
17 227 and ACJA §7-204 on its head and are concerning to APSA. We see in the
18 latest proposal a series of changes where in many instances there is no need for
19 change. In some instances, proposed changes appear to diminish the value and due
20 process rights of process servers in the state.

21 After consideration, research and debate, the Arizona Process Servers Association
22 (APSA) objects to several of the proposed rule changes. We have concerns and
23 seek clarification on others. Our explanations follow.

24 At the December 2023 AJC meeting, the (now enacted) language in ACJA §7-
25 204(L)(4)(n) was the sole point of contention and as APSA understood it, no
26 further changes, substantive or stylistic were needed nor contemplated.



27 Agreeably, the CLD has now proposed modification to the language in ACJA §7-
28 204(L)(4)(n) set forth by A.O. 2023-227 to read:

29 Self-Study. A process server may receive all continuing education credits
30 through self-study activities, including taking correspondence courses,
31 reviewing procedure manuals, watching video presentations, listening to
32 audio materials, attending online seminars, and other methods of
33 independent learning.

34 *This paragraph is the sole proposed change in ACJA §7-204 which APSA can*
35 *agree to without objection.*

36 Proposed changes to continuing education and its projected ripple effect.

37 APSA and the state's process servers have already seen a reduction in other
38 process server course offerings available (discussed below). APSA believes if the
39 proposed changes are enacted, no positive results will come from reducing the
40 minimum mandated continuing education hours or other related educational
41 changes.

42 The CLD proposes to reduce the current process server minimum continuing
43 education hours from ten hours to only three.

44 A proposed reduction by 70% of the minimum mandated continuing education
45 hours is projected to increase complaints against process servers, disciplinary
46 actions, and the negative results thereof. A ripple effect of harm to not only the
47 desired professionalism of the process server, but to the knowledge base by which
48 process servers operate and the public depends is projected. This also will drive
49 some educational providers out of business. The courts and public will feel the
50 adverse effects of having less educated process servers.

51 Questionable language, errors, and changes

52 In its current proposal, the Certification & Licensing Division (CLD) has put forth
53 a slew of substantive and stylistic changes deviating from A.O. 2023-227 which



54 we find in many cases unnecessary. In many instances, it forces us to question the
55 motive for such changes.

56 We have found several typographical and grammatical errors including, but not
57 limited to misspellings, incomplete sentences [i.e.: see the proposed revised
58 definition of “inactive” and (D)(3)(a)], pertinent words removed, as well improper
59 as tense and verb usage throughout the document. In at least one instance, entire
60 paragraph(s) of existing language were left off the proposed changes to only show
61 the proposed changes. One section noted in the Director’s cover letter [ACJA §7-
62 204(E)(2)(e)] appears to be a typographical error and was not found.

63 Continuing education for process servers and list of courses

64 Process servers depend on the courts and CLD to be right and dependable
65 resources for information. The CLD publishes a list in its website, Programming
66 Pre-Approved for Private Process Server Continuing Education Credit in
67 accordance with ACJA §7-204(L)(4)(d), to which process servers depend on for
68 accuracy in finding continuing education resources. After review, we found the
69 list to be inaccurate.

70 At the December AJC meeting, there was some discussion mentioning COJET and
71 the State Bar as resources. In the CLD Director’s cover letter supporting the
72 requested changes, Mr. Nash wrote, “During the December 2023 meeting, the
73 Division’s update to the AJC included Arizona’s courts and the State Bar as
74 possible resources for private process server continuing education”. The State Bar
75 is one of the resources posted on the approved continuing education list for process
76 servers.

77 APSA examined the list to survey the degree of accuracy and viability of approved
78 continuing education providers and classes. We found the list published by CLD
79 to be outdated, in that of the (adjusted list of) twenty-one (21) providers, six (6) of
80 the providers (29%) are out of business or otherwise no longer offering continuing
81 education. Of the listed 120 courses, we found that 26 (22%), including the course
82 listed under the State Bar are no longer offered. The discontinued courses represent
83 102.25 hours of listed process server continuing education.

84 Our survey results and data are listed at the end of these comments. (see Results)

85 APSA remains concerned.

86 Excepting the changes proposed in ACJA §7-204(L)(4)(n), the Arizona Process
87 Servers Association, as a continuing education provider and association
88 representing many of Arizona's process servers, objects or remains concerned as to
89 several of the changes proposed, and urges the AJC to not approve the CLD's
90 requested changes at this time.

91 APSA would much rather partner with the CLD on any considered changes in the
92 future. This would allow the voice and experience of process servers statewide to
93 be heard and considered.

94 Respectfully submitted,

95 **Arizona Process Servers Association**

96 /S/

97 **Barry R. Goldman**

98 Administrator, Secretary/Treasurer

99

100 Larry J. Ratcliff, President

101 John Osborn, Vice President

102 Barry R. Goldman, Administrator, Secretary/Treasurer

103 Ronald R. Ezell, Immed. Past Pres.

104 Susie Baldwin (Director #1)

105 Kay Dean (Director #2)

106 Gregory Scott Hardy (Director #3)

107 Nathan Botsch (Director #4)

108 Matthew Uthe (Director #5)

109 Tracy Arnold (Director #6)



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137 Detailed Discussion re: Individual Changes Proposed

138 Government employee process servers

139 At several points in ACJA §7-204, the term “private process server”, especially
140 when discussed in disciplinary matters does not appear to include actions by
141 government employee process servers. The impression is that government employee
142 process servers appear to be excluded from such (disciplinary) matters.

143 We suggest where “private process servers” are specifically addressed, that term
144 should be used. Likewise, where “government employee process servers” are
145 specifically addressed, that term should be used. In all other instances, where the
146 term “private process server” is used throughout but may also include government
147 employee process servers, we suggest using the term “certificate holder” be used.

148 Definition of suspended or suspension.

149 The proposed language, “having no effect” appears to be different from the more
150 specific current language, “is not permitted to exercise the privileges of the
151 certificate.” Additionally, “after which the certificate’s effect is restored
152 automatically” appears to preclude other conditions of suspension.

153 “Suspended” or “suspension” means a written, formal ~~discipline disciplinary~~
154 sanction finding against a process server resulting in the process server’s
155 certificate holder has violated one or more provisions of the statutes, court
156 rules, or this code section and the private process server’s certificate is not
157 revoked, but the certificate holder is not permitted to exercise the privileges
158 of the certificate having no effect for a set specific period of time as the
159 result of a final order of a disciplinary action after which the certificate’s
160 effect is restored automatically.

161 APSA objects to this change.

162 Changes to ACJA §7-204(E)(5)(b)(1) & (3)

163 Under (E)(5)(b)(1), the term, “any corrupt activities” is undefined, and left for
164 wide interpretation (or misinterpretation), and is different than the current



165 language, "...misrepresentation, omission, fraud, dishonesty, or corruption on the
166 part of the applicant".

167 The current rule:

168 b. The presiding judge may refuse to certify an applicant if one or more of
169 the following
170 is found:

171 (1) Material misrepresentation, omission, fraud, dishonesty, or
172 corruption on the part of the applicant in the application for, or
173 attempt to obtain, certification, including the examination;

174 The proposed rule:

175 b. The presiding judge may ~~refuse to certify~~ deny certification if an applicant
176 ~~if one or more of the following is found:~~

177 (1) Has engaged in Material material misrepresentation, omission,
178 fraud, or dishonesty, ~~or corruption on the part of the applicant~~ in the
179 application or in connection with any other requirements of subsection
180 (E)(2)(c), including the examination for, or engaged in any corrupt
181 activities in an attempt to obtain certification, including the
182 examination;

183 APSA objects to this change.

184 Changes to ACJA §7-204(E)(5)(b)(5)

185 Under (E)(5)(b)(5), we recommend retaining the words, "...by any federal, state,
186 or local government or regulatory entity...".

187 (5) ~~A-Has a record of denial, revocation, or suspension of,~~ or any
188 disciplinary action
189 in connection with, ~~of~~ any professional or occupational license or certificate
190 ~~of the applicant~~ by any federal, state, or local ~~government or regulatory~~
191 entity ~~thereof~~. The judge must consider whether the underlying conduct ~~in~~
192 ~~any other disciplinary~~



193 ~~action~~ is relevant to certification as a private process server;

194 APSA objects to this change.

195 Changes to ACJA §7-204(F)(7)

196 APSA is genuinely concerned about this proposed change. The current language
197 in this section mandates ten (10) hours of continuing education annually for
198 process servers. Reducing that minimum requirement to a threshold of
199 meaningless negligibility is not in the best interests of the process server, the courts
200 or the public.

201 Proposed language:

202 Continuing Education. Certified private process servers must complete ~~ten~~
203 3 hours of continuing education ~~each every twelve~~ 12 months and must
204 submit documentation of ~~completion of this~~ completed continuing
205 education in a format approved by the director ~~with the~~ when submitting
206 application for renewal of certification. Certified private process servers
207 must complete continuing education classes that are relevant to the work
208 of a process server, under subsection (L).

209 In fielding complaints against process servers, APSA finds a trend of failure on the
210 part of the process server to be educated as to the applicable rules, regulations,
211 statutes, case law and professional practices to be common. In researching the
212 meted-out sanctions of complaints against process servers, APSA found in the
213 majority of instances the process server was mandated to take more continuing
214 education hours.

215 Reducing the required minimum education of the process server does an extreme
216 disservice to the public, the legal community, the courts, and most of all, to the
217 process server.

218 A reduction of the minimum mandatory required continued education from ten
219 annual hours to three is inconsistent with professional expectations of learning and
220 performance. A less educated process server is one who is apt to improperly serve



221 documents. There are numerous things that change each year that both new and
222 experienced process servers are unaware of. Many new and experienced process
223 servers often receive their only training through mandated continuing education,
224 and a reduction of offerings is to be expected if this change is enacted.

225 Quoting from another party's comment posted on the ACJA Web Forum, “Service
226 of process is a unique vocation, with long hours in a wide variety of environments.
227 It demands professionalism in the face of adversity, and knowledge of codes, rules,
228 and statutes.”¹

229 If reducing the required continuing education hours succeeds, it will reduce market
230 demand and there will be fewer providers and courses available. A reduction will
231 make obsolete a free-market segment and financial incentive for service providers
232 to remain in business. The process server simply may not be able to obtain the
233 required continuing education.

234 APSA objects to this change.

235 Changes to ACJA §7-204(H)(1)(c)

236 Under section (H), Complaints, Investigation, Hearings, and Disciplinary Action,
237 APSA takes issue with the proposed additional language in paragraph (1)(c):

238 Anonymous Complaints. The presiding judge must not accept anonymous
239 complaints. But a complaint may be accepted even if the complainant asks
240 that their identity not be disclosed to the certificate holder.

241 There is no standard in these rules by which a hearing officer may determine if
242 redacting the complainant's identity is appropriate and just.

243 This proposed change essentially makes the complaint anonymous. APSA believes
244 this provision for the complainant’s identity not to be disclosed abrogates the right
245 of the accused to face his/her accuser, but more so, withholding the identity of the

¹ Sabine Hilten, Administrator/Lead Instructor, EZ Legal ED, LLC



246 accuser impedes the process server’s ability to identify the person allegedly
247 offended or harmed.

248 In the totality of the circumstances, such a policy violates the process server's
249 ability to fully understand the nature of the complaint, depriving the accused means
250 to effectively defend against the specifications in the complaint.

251 APSA views this proposed change as wholly unfair and against public policy. We
252 also believe this provision will encourage frivolous and unfounded complaints.

253 APSA objects to this change.

254 Changes to ACJA §7-204(H)(5)

255 Response from Certificate Holder. The proposed language change:

256 If an investigation is warranted, the ~~The~~ presiding judge must ~~have~~ cause the
257 complaint to be sent to the certificate holder ~~within a reasonable period of~~
258 ~~time after commencement of the investigation~~ and must direct the certificate
259 holder to provide a written response by a specified date. The presiding judge
260 ~~must~~ may not proceed with disciplinary action under this code section
261 without first providing this notice and the opportunity to respond.

262 We find this proposed language to lack sufficient allowance for service and a
263 reasonable response time. We suggest some language akin to the following
264 (*italics*):

265 If an investigation is warranted, the ~~The~~ presiding judge must ~~have~~ cause the
266 complaint to be sent to the certificate holder ~~within a reasonable period of~~
267 ~~time after commencement of the investigation~~ and must direct the certificate
268 holder to provide a written response by a specified date, [“no later than 20
269 days from date of service, if personally delivered to the certificate holder, or
270 no later than 25 days from the date of mailing of the complaint.”^{1F²}] The
271 presiding judge ~~must~~ may not proceed with disciplinary action under this

² See ARS §33-1313 for basis of addition time for mailing.



272 code section without first providing this notice and the opportunity to
273 respond.

274 APSA objects to this change without modification.

275 Changes to ACJA §7-204(H)(14)(b)

276 The proposed changes appear to negatively affect the rights of the process server,
277 as well as procedural due process. Changing “must” to “may” appears to take
278 away the right of the process server to challenge evidence by giving the hearing
279 officer discretion as whether or not an accused has the right to inspect and copy
280 admissible documentary evidence or non-privileged documents.

281 The current language states:

282 The hearing officer, on written request, must order a party to allow the
283 requesting party to have a reasonable opportunity to inspect and copy, at the
284 requesting party’s expense, admissible documentary evidence or documents
285 reasonably calculated to lead to admissible evidence prior to a hearing, unless
286 the evidence is privileged.

287 The new language, if approved would read:

288 On the written request of a party, the hearing officer may order a party to
289 allow the requesting party to have a reasonable opportunity before the
290 hearing to inspect and copy, at the requesting party’s expense, admissible
291 documentary evidence or non-privileged documents reasonably calculated to
292 lead to admissible evidence.

293 We object to this change without explanation. While citing the Rules of Civil
294 Procedure for the Superior Courts of Arizona (ARCP) for issuance and service of a
295 subpoena for the state to conduct its preliminary investigation [“Subpoenas must
296 be issued, served, and enforced in compliance with the Arizona Rules of Civil
297 Procedure.” – ref ACJA §7-204(H)(4)] here rules are remarkably different and
298 some would say, inequitable, for the process server seeking to discover evidence to
299 defend him/herself from an accusation in a complaint.



300 For process servers, the hearing process is not on equal footing, and the accused is
301 hobbled from presenting an adequate defense from the start by these rules, and
302 more particularly, one-sided rule changes.

303 APSA objects to this change.

304 Changes to ACJA §7-204(H)(14)(d)

305 APSA objects to the proposed new language proposal in its current form. The
306 current language (ordered in A.O. 2023-227) states:

307 Parties may take depositions for use as evidence of witnesses who cannot be
308 subpoenaed or are otherwise unable to attend the hearing. To take a
309 deposition, a party must file with the hearing officer a written motion, with
310 copies to all parties, setting forth the name and address of the witness,
311 subject matter of the deposition, documents, if any, the parties are seeking
312 for production, time and place proposed for the deposition, and justification
313 for the deposition.

314 The CLD, in writing their proposed changes, failed to inscribe the above language.

315 The new proposed language (d. “Depositions are permitted only with approval of
316 the hearing officer”) appears to give the hearing officer, not the accused, the right
317 to determine if the accused should acquire and present evidence.

318 We suggest (in *italics*):

319 d. *“Depositions are permitted by the hearing officer on written motion.”*

320 We also suggest some alternatives to the proposed language changes.

321 (1) Parties may ~~take depositions for use as evidence of~~ depose witnesses
322 who cannot be subpoenaed or are otherwise unable to attend the
323 hearing and introduce their deposition in lieu of live testimony.

324
325 We suggest (in *italics*):

326 (1) *The hearing officer may order a deposition subpoena be issued. Parties*



327 may depose witnesses who cannot be subpoenaed or are otherwise unable to
328 attend the hearing and introduce their deposition in lieu of live testimony.

329 Paragraph (2) as proposed is flawed in its grammar and somewhat difficult to
330 discern.

331 (2) Parties may take deposition for purposes of obtaining discovery. If
332 approved by the hearing officer, the party must serve a deposition subpoena
333 on the witness commanding the witness to appear at a deposition no sooner
334 than 5 days after service of the subpoena unless the time is shortened by the
335 hearing officer; the date, time, and location of the deposition; and a list of
336 any documents to be produced at the deposition. A copy of the hearing
337 officer’s order allowing the deposition must be attached to the subpoena. To
338 take

339
340 We suggest (*in italics*):

341 (2) “Parties may take deposition for purposes of obtaining discovery. The
342 party must serve a deposition subpoena on the witness, commanding the
343 witness to appear at a deposition no sooner than 5 days after service of the
344 subpoena, unless the hearing officer shortens the time. The subpoena must
345 state the date, time, and location of the deposition, and an attached list of
346 any documents to be produced at the deposition. A copy of the hearing
347 officer’s order allowing the deposition must be attached to the subpoena.”

348 In the language proposed in paragraph (3), rather than using the narrower and more
349 specific “the substance of the witness’s expected testimony”, we suggest taking
350 from the existing language, “subject matter of the deposition” which would allow a
351 broader scope of inquiry.

352 (3) Before taking a deposition, a party must file with the hearing officer a
353 written motion, with copies to all parties, setting forth stating the name and
354 address of the any witness the party seeks to depose, the substance of the
355 witness’s expected testimony, subject matter of the deposition, any
356 documents, if any, the parties are seeking for production party intends to use



357 in the deposition, the time and place proposed for the deposition, and the
358 reason the party believes it necessary for the witness to testify by
359 justification for the deposition or the reason the party requires this form of
360 discovery.

361 We suggest (in *italics*):

362 *(3) A written motion for a deposition subpoena to the hearing officer must*
363 *include the name and address of the witness to depose, the subject matter of*
364 *the deposition, documents, if any, the party is seeking for production, the*
365 *time and place proposed for the deposition, and justification for the*
366 *deposition.*

367 Further, the added language in paragraph (3), "...the reason the party believes it
368 necessary for the witness to testify by deposition or the reason the party requires
369 this form of discovery" when depending on the approval of the hearing officer to
370 issue, slants the playing field, as it were in favor of the accuser, and in these
371 instances, the court is the accuser. There is no plaintiff. The process server
372 already faces an uphill battle in these administrative hearings which start with a
373 presumption of guilt, rather than innocence.

374 APSA objects to this change without amendment as stated above.

375 Changes to ACJA §7-204(H)(14)(f) [proposed deletion]

376 Eliminating the language in this paragraph (approved per A.O. 2023-227) to the
377 proposed language at ACJA §7-204(H)(14)(d). We have no objections if approved
378 with the suggested language changes in (H)(14)(d) noted.

379 Otherwise, APSA objects to this change.

380 Changes to ACJA §7-204(H)(15)

381 It is unclear if this change is a continuation of existing subparagraph (e) or a new
382 subparagraph (f).

383 APSA objects to this change without further clarification and correction.



384 Changes to ACJA §7-204(H)(17) [proposed as ACJA §7-204(H)(16)]
385 Procedure at Hearings. This proposed language removes the ability of the hearing
386 officer to “decide all motions”, abolishing the hearing officer’s ability to decide on
387 motions made during the course of a hearing or at another stage in the process.
388 This would include such things as a motion to exclude testimony or evidence,
389 obtain additional discovery (i.e.: to impeach a witness), treat a witness as hostile,
390 or other things in the interest of justice. We believe this may hamper the process
391 of fair and just hearings.

392 16. 176. Procedure at Hearings.
393 a. Powers of Hearing Officers. A hearing officer must preside over the
394 hearing. For purposes of hearings or other proceedings under this section,
395 ~~The the hearing officer has the authority to decide all motions, conduct~~
396 ~~prehearing conferences, may administer oaths; examine under oath any~~
397 ~~individual concerning the subject of any hearing or proceeding; determine~~
398 ~~the order of proof and manner of presentation of other evidence ;issue~~
399 ~~subpoenas, place witnesses under oath,; recess, continue, or adjourn the~~
400 ~~hearing,; and prescribe and enforce general rules of conduct and decorum.~~
401 Informal disposition may be made of any case by stipulation, agreed
402 settlement, consent order, or default.

403 APSA objects to this change.

404 Changes to ACJA §7-204(H)(21) [removed entirely] & (F)(3)(c)
405 The proposed deletion of (H)(21) removes the mandate for the procedure to give
406 notify the certificate holder of any suspension or revocation of the certificate.

407 ~~Procedure after Suspension or Revocation.~~
408 a. ~~On suspension or revocation of any certification, the presiding judge must~~
409 ~~have notice promptly served on the certificate holder either in person or by~~
410 ~~certified mail, return receipt requested, addressed to the last address of~~
411 ~~record with the clerk. Notice by mail is complete on deposit in the United~~
412 ~~States mail.~~



413 ~~b. The presiding judge may only issue certification to any person whose~~
414 ~~certification had previously been revoked under this code section after the~~
415 ~~expiration of one year from the date of revocation, and after the person~~
416 ~~again qualifies in accordance with the reinstatement provisions of this code~~
417 ~~section.~~

418 APSA objects to this change, save for the caveat, below.

419 A.O. 2023-227 amended (F)(3)(c) to read:

420 On suspension, revocation, voluntary surrender, or expiration of
421 certification, the presiding judge must notify the certificate holder and the
422 clerk in writing that certification is withdrawn. The certificate holder must
423 surrender the issued identification card to the clerk within three days of
424 receipt of notice. The clerk must update the list of certified private process
425 servers to reflect this change in status and must notify division staff.

426 The current proposal for revisions to ACJA §7-204(F)(3)(c) is as follows:

427 ~~On~~ If a certification is no longer valid due to suspension, revocation,
428 voluntary surrender, or expiration of certification, the presiding judge must
429 notify ~~give written~~ notice to the certificate holder and the clerk ~~in writing~~
430 ~~that certification is withdrawn of that fact.~~ The certificate holder must
431 surrender the issued identification card to the clerk within ~~three~~ 3 days of
432 ~~receipt of receiving~~ notice from the presiding judge. The clerk must ~~update~~
433 record the change in the list of certified private process servers maintained
434 under subsection (E)(4)(b)(2) to reflect this change in status and must
435 notify division staff.

436 If the proposed revision to (F)(3)(c) moves forward, [assuming the removal of the
437 language in (H)(21)], we suggest adding the following language to the proposed
438 change (in *italics*):

439 ~~On~~ If a certification is no longer valid due to suspension, revocation,
440 voluntary surrender, or expiration of certification, the presiding judge must



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441 ~~notify~~ give written notice to the certificate holder and the clerk ~~in writing~~
442 ~~that certification is withdrawn of that fact.~~ *The clerk must deliver notice to*
443 *the certificate holder either in person or by certified mail, return receipt*
444 *requested, addressed to the last address of record with the clerk. The*
445 *certificate holder must surrender the issued identification card to the clerk*
446 *within ~~three~~ 3 days of ~~receipt of receiving~~ notice from the presiding judge.*
447 *The clerk must ~~update~~ record the change in the list of certified private*
448 *process servers maintained under subsection (E)(4)(b)(2) to reflect this*
449 *~~change in status~~ and must notify division staff.*

450 Otherwise, APSA objects to this change.

451 Changes to ACJA §7-204(H)(22) [renumbered in proposed revision to ACJA §7-
452 204(H)(20)]

453 This revision has grammatical errors so as to make the proposed revision
454 unintelligible in its current form.

455 20. ~~220~~. Filing of Special Action.

456 ~~Decisions~~ A party other than a complainant aggrieved by a final decision of
457 the presiding judge, or hearing officer or other designee regarding
458 certification, renewal of certification, or disciplinary action under this code
459 section are final. Parties may seek judicial review through a by filing a
460 petition for a special action in the superior court within 35 days after entry of
461 the final order of the hearing officer. The petition for special action must be
462 under in compliance with the Arizona Rules of Procedure for Special
463 Actions.

464 We suggest in (*italics*):

465 *A party other than a complainant aggrieved by a final decision of the*
466 *presiding judge or hearing officer regarding certification, renewal or*
467 *disciplinary action under this section may seek judicial review by filing a*
468 *petition for a special action in the superior court within 35 days after entry*



469 *of the final order. The petition for special action must comply with the*
470 *Arizona Rules of Procedure for Special Actions.*

471 Otherwise, APSA objects to this change.

472 Changes to ACJA §7-204(J)

473 As previously discussed, where (in all instances) of current or proposed rule
474 changes, the section references “private process servers”, especially in the Code of
475 Conduct, it appears to exclude government employee process servers. Where the
476 term “private process server” or “process server” is used throughout but may also
477 include government employee process servers, we suggest using the term “certificate
478 holder” be used.

479 Changes to ACJA §7-204(J)(5)(e)

480 Our concern, in this particular instance, is in regard to an allegation of possible
481 violations of statute(s) relating to acting as a private investigator. Although many
482 process servers are private investigators, not all are.

483 The proposed language:

484 E. The private process server must ~~maintain~~ act in the best interests of
485 the client by maintaining a high standard of work and reporting to a client
486 the full facts ~~determined as a result of~~ concerning the work and effort
487 expended whether they are advantageous or detrimental to the client.

488 The skiptracing exemption afforded process servers “...who are duly registered
489 and performing their duties pursuant to the Arizona rules of civil procedure” [ref.
490 ARS §32-2409(9)] has been used to justify reporting to a client the whereabouts of
491 a person sought after, but not to report findings as to the “...identity, habits,
492 conduct, movements, whereabouts, affiliations, associations, transactions,
493 reputation or character of any person or group of persons” [ref. ARS 32-
494 2401(16)(iii)].

495 Process servers, as an industry practice, have always limited our findings and
496 reports to information related to the service of process, only. This proposed



497 language change, "...full facts concerning the work..." appears to mandate the
498 process servers act as unlicensed private investigators and give our clients
499 information they are not otherwise privy to, exceeding purposes for service of
500 process.

501 We suggest a language change appropriate to reflect (in *italics*):

502 *The private process server must act in the best interests of the client by*
503 *maintaining a high standard of work and reporting to a client the full facts*
504 *concerning the work and effort expended whether they are advantageous or*
505 *detrimental to the client. The process server may report to a client the*
506 *whereabouts of a person sought after, but not to report findings as to the*
507 *identity, habits, conduct, movements, whereabouts, affiliations, associations,*
508 *transactions, reputation or character of any person or group of persons.*

509 APSA objects to this change without amendment as stated above.

510 Changes to ACJA §7-204(L)(2) – Continuing Education Policies

511 Like the proposed changes to ACJA §7-204(F)(7) discussed previously, APSA is
512 also genuinely concerned about this change. This proposal by the CLD in its
513 current state, if enacted, does more harm than good.

514 Under ~~subsection~~(F), all certified private process servers must complete at
515 least ~~ten~~3 hours of approved continuing education every ~~twelve~~12 months
516 in an area relevant to the work of a certified private process server, including
517 subjects applicable to the Code of Conduct under (J) and the subject areas
518 listed in (L)(4)(a). The private process server must submit documentation of
519 completion of the continuing education for the 3-year certification period in
520 an approved format with the application for renewal of certification. Any
521 hours completed after the filing of the renewal application do not apply to
522 that prior certification period. Hours completed after filing a renewal
523 application will apply to the continuing education requirements for the
524 certificate holder's current 3-year certification period.



525 As stated in discussing proposed changes to ACJA §7-204(F)(7):

526 The current language in this section mandates ten (10) hours of continuing
527 education annually for process servers. Reducing that minimum
528 requirement to a threshold of meaningless negligibility is not in the best
529 interests of the process server, the courts, or the public. .

530 Reducing the minimum mandatory required continued education from ten
531 annual hours to three is inconsistent with professional expectations of
532 learning and performance. A less educated process server is one who is apt
533 to improperly serve documents. There are numerous things that change each
534 year that new and experienced process servers are unaware of. Many new
535 and experienced process servers often receive their only training through
536 mandated continuing education.

537 As an educational provider, APSA interprets this proposed change to mandate the
538 provider teach “...the work of a certified private process server, including subjects
539 applicable to the Code of Conduct under (J) and the subject areas listed in
540 (L)(4)(a)”. However, when analyzing a sample outline of this mandated
541 curriculum in a three-hour continuing education program, we find the mandated
542 instruction and implied limitation on annual subject matter occupies extraordinary
543 time and leaves little else (if anything) for sufficient instruction into evolving
544 subject matter and issues. Excluded instruction would include changes in statutes,
545 rules of court and this section, regulations, case law, and industry practices.

546 As process servers, we serve a variety of papers from different jurisdictions,
547 including federal and out of state courts. We also serve (deliver) notices before
548 and independently of court actions, many of which are found to be governed under
549 the Fair Debt Collection Practices Act and related enactments. Process servers
550 need education on these issues, as well, and three hours per year is clearly not
551 sufficient instructional time.

552 This proposal would hamper the ability of the professional process server to
553 remain a *professional*, as a reduction in continuing education hours would reduce

554 the available offerings by educational providers. One provider contacted by APSA
555 on the proposed revisions stated they would exit the Arizona continuing education
556 market completely as to remain in business here would not be viable under this
557 proposal.

558 As a comparison, APSA examined other occupations and professions requiring
559 continuing education. APSA found under ACJA §1-302(H)(1), 16 hours of
560 education and training are required of judges, administrators, clerks and court
561 personnel:

562 All full-time judges and court personnel governed by these standards shall
563 complete at least sixteen credit hours of judicial education each year,
564 including ethics training, computer security/network security training, and
565 six hours of live training.

566 This requirement is also referenced in ACJA §1-302(J)(1) to state, “All
567 administrators, clerks and court personnel shall complete the general
568 requirements”.

569 Constables, as peace officers, are mandated 16 hours of continuing education each
570 year. By comparison, constables have limited jurisdiction in serving legal process
571 for the justice courts (excepting a family law summons).

572 Process servers, on the other hand, require a comparatively larger knowledge base
573 (serving for all jurisdictions, as well as documents before or independently of a
574 court action) of service of process education compared to the justice court’s
575 constable.

576 Perhaps a better way to propose a rule change here would be to retain the ten
577 hours, but require, “A minimum of two hours of continuing legal education activity
578 each educational year (*or in the alternative, “each renewal period”*) shall be in the
579 area of professional responsibility”.^{2F3} This language is consistent with the 20%

³ i.e.: Code of Conduct under (J) and the subject areas listed in (L)(4)(a).



580 appropriation of professional responsibility MCLE noted per Rule 45(a)(2) of the
581 Supreme Court for attorneys.^{3F}⁴

582 APSA objects to this change.

583 Changes to ACJA §7-204(L)(4)(e)

584 Like the proposed changes to ACJA §7-204(L)(2) and ACJA §7-204(F)(7), APSA
585 finds this proposed change concerning. In other professions regulated under the
586 ACJA, we usually see a faculty member receiving continuing education credit for
587 "...actual presentation time and up to two hours of preparation time for each hour
588 of presentation". The CLD has chosen to remove such language.

589 APSA also stands against this proposed rule change:

590 Serving as Faculty. Continuing education credit may be granted for serving
591 as faculty, an instructor, speaker, or panel member of an approved
592 continuing education seminar directly related to the service of process.
593 Continuing education credit will be granted for the actual presentation time,
594 plus actual preparation time up to ~~two~~ 2 hours ~~for each hour of presentation~~
595 ~~time~~. A maximum of ~~five~~ 3 hours of continuing education credit will be
596 granted for serving as faculty in any renewal period and a private process
597 server may not receive credit for presenting a program repeatedly throughout
598 the renewal period. A private process server may receive continuing
599 education credit for actual presentation time for duplicate programs
600 presented in subsequent renewals periods but will not be granted continuing
601 education credit for preparation time for those programs.

602 The limitations proposed for serving as faculty under this proposal limit the pool of
603 qualified instructors and content developers. Under this rule change, reducing the
604 continuing educational benefits for faculty and presenters gives them no incentive
605 to share their knowledge. Combined with a proposed reduction of continuing
606 education hours, this proposal would have the effect of actually discouraging

⁴ ref. Rules of the Supreme Court of Arizona Rule 45(a)(2) -- Mandatory Continuing Legal Education, Continuing Legal Education Requirements

607 experienced process servers from mentoring the process server through designing,
608 producing, and presenting courses.

609 This proposed change, like those related to it in ACJA §7-204(L)(2) and ACJA §7-
610 204(F)(7) should not be ordered.

611 APSA objects to this change.

612 Changes to ACJA §7-204(L)(4)(n)

613 As stated previously, this paragraph is the sole proposed change in ACJA §7-204
614 which APSA can agree to without objection.

615 Self-Study. A process server may receive all continuing education credit
616 credits for through self-study activities, including taking correspondence
617 courses, reviewing procedure manuals, watching video presentations,
618 listening to audio materials, attending online seminars, and other methods of
619 independent learning.

620

621 Pre-Approved Process Server Continuing Education List Survey Results

622 As discussed, on 21 February 2024 through 07 March 2024, APSA conducted a
623 survey to examine the degree of accuracy and viability of the list of approved
624 continuing education providers and classes provided by the CLD under ACJA §7-
625 404(L)(4)(d).

626 We found the list published by CLD to be outdated, in that of the (adjusted list of)
627 twenty-one (21) providers, six (6) of the providers (29%) are out of business or
628 otherwise no longer offering continuing education.

629 Of the listed 120 courses, we found that 26 (22%) [representing 102.25 hours of
630 process server continuing education] are no longer provided.

631 Details are as follows:

632 • **State Bar of Arizona**

- 633 ○ Online CLE Course 1 hour -- Are Ethics Optional in the Law?
- 634 ○ Per Jennifer Sonier this course is no longer offered and this listing is
635 invalid.
 - 636 ■ *Status: Invalid listing - course not offered (1 hr.)*

637
638 • **Phoenix Library**

- 639 ○ The link provided, www.phoenixpubliclibrary.org/events.jsp was
640 found to be invalid.
- 641 ○ APSA found the following courses listed were found to be non-
642 existent:
 - 643 ■ Introduction to Mousing & Keyboarding
 - 644 ● *Status: Invalid listing - course not offered [Min 30 min.*
645 *per (L)(4)(h)]*
 - 646 ■ Introduction to the Internet
 - 647 ● *Status: Invalid listing - course not offered [Min 30 min.*
648 *per (L)(4)(h)]*
 - 649 ■ Introduction to E-Mail



- 650 • *Status: Invalid listing - course not offered [Min 30 min.*
- 651 *per (L)(4)(h)]*
- 652 ▪ Introduction to Word Processing
- 653 • *Status: Invalid listing - course not offered [Min 30 min.*
- 654 *per (L)(4)(h)]*
- 655
- 656 ○ APSA found the following course listed for 5 hours of credit, *CD –*
- 657 *Non-Violent Communication by Marshall Rosenberg – 5 hours #153.6*
- 658 *R723n Volume 1-4* to be non-existent. A similarly titled book was
- 659 found on Amazon.com for sale. (Nonviolent Communication: A
- 660 Language of Life: Life-Changing Tools for Healthy Relationships
- 661 (Nonviolent Communication Guides) Paperback – September 1, 2015)
- 662 ▪ *Status: Invalid listing - course not offered (5.0 hrs.)*
- 663
- 664 • **Law Library**
- 665 ○ Response on 21 February 2024 from the Maricopa County Superior
- 666 Court Law Library regarding the listed course, Learn to Use the Law
- 667 Library’s Free Westlaw Patron Access, was as follows: “Right now
- 668 we do not have any classes scheduled for Westlaw training. However,
- 669 there are some self-guided tutorials on the site and we can walk you
- 670 through some basics if you come to one of our four locations. The
- 671 downtown location is probably your best bet for something like that.”
- 672 ▪ *Status: Invalid listing - course not offered [Min 30 min. per*
- 673 *(L)(4)(h)]*
- 674
- 675 • **Academy of Private Investigation and Loss Prevention**
- 676 ○ APSA contacted William Copeland, the principal, who declined to
- 677 answer any questions or otherwise participate.
- 678
- 679 • **AccuFacs Publishing, LLC**
- 680 ○ Provider reported all courses listed are still offered.



- 681 ○ AccuFacs has incorporated the materials published by CLE
- 682 Publications into its portfolio.
- 683
- 684 ● **American Process, LLC**
- 685 ○ APSA contacted the principal, Hipolito (Chico) Flores, who
- 686 confirmed the accuracy of the listed courses.
- 687
- 688 ● **Arizona Association of Certified Process Servers**
- 689 ○ APSA contacted Aubrey Keck, the (former) contact person for this
- 690 association. He informed the undersigned that the organization is
- 691 defunct and he is retired. The ten (10) courses listed are no longer
- 692 valid and not being taught.
- 693 ■ ***Provider out of business***
- 694 ○ Private Process Server Best Practices
- 695 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 696 ○ Private Process Server Resources to Locate People
- 697 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 698 ○ Forms and Formats for Private Process Servers
- 699 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 700 ○ *Interviewing and Questioning for Private Process Servers*
- 701 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 702 ○ Due Diligence
- 703 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 704 ○ Private Process Server Exam Course, Part I
- 705 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 706 ○ Private Process Server Exam Course, Part 2
- 707 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 708 ○ Private Process Server Exam Course, Part 3
- 709 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 710 ○ Private Process Server Exam Course, Part 4
- 711 ■ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 712 ○ Foreign Subpoena Service



- 713 ▪ *Status: Invalid listing - course not offered (2.5 hrs.)*
- 714
- 715 • **Arizona Continuing Education and Training**
- 716 ○ Although APSA attempted contact with the principal, Christine
- 717 Burke, no response has been received to date. Information on the
- 718 provider’s website appears to correspond with the course listings,
- 719 however when attempting to further verify, the response from the
- 720 website server was, “This product is not available. Contact the school
- 721 owner for more information.”.
- 722 ▪ *Status: Results are inconclusive.*
- 723
- 724 • **Arizona Process Servers Association**
- 725 ○ APSA confirms all courses listed are still offered. APSA is pre-
- 726 approved for all courses.
- 727
- 728 • **Arizona Process Server Training (Discovery Detective Academy)**
- 729 ○ Provider reported all courses listed are still offered.
- 730
- 731 • **Casey Lanford**
- 732 ○ Telephone contact was made with Mr. Lanford, who informed the
- 733 undersigned that he moved out of state quite a while ago and no
- 734 longer offers any continuing education classes in Arizona.
- 735 ▪ *Status: Provider out of business*
- 736 ○ Process Server Field Ride Along
- 737 ▪ *Status: Invalid listing - course not offered (5 hrs.);*
- 738
- 739 • **CLE Professionals**
- 740 ○ Provider reported all courses listed are still offered.
- 741 ○ Portfolio of CLE Professionals is now published by AccuFacs
- 742 Publishing, LLC and should be merged into that provider’s listing.
- 743
- 744



- 745
- **Corder Community Services**

746 ○ Corder Community Services, Inc. was found to be administratively

747 dissolved by the Arizona Corporation Commission effective

748 11/9/2017. The listed telephone number has been reassigned.

749 ▪ *Provider out of business*

750 ○ Security & Investigations Training

751 ▪ *Status: Invalid listing - course not offered (6.75 hrs.)*

752
 - **EZ Legal Ed, LLC**

753 ○ Provider reported all courses listed are still offered.

754

755
 - **Glen Duke**

756 ○ Provider reported all courses listed are still offered.

757

758
 - **Learning Shop USA**

759 ○ Provider reported all courses listed are still offered.

760

761
 - **Legal Preparation Protection, LLC**

762 ○ The telephone number listed is out of service; the domain listed points

763 not another continuing education provider. No response to email.

764 ▪ *Provider out of business*

765 ○ Are You an Effective Process Server?

766 ▪ *Status: Invalid listing - course not offered (10.0 hrs.)*

767

768
 - **Phoenix College**

769 ○ AJS-101 Introduction to Criminal Justice

770 ▪ This course was found on the college's schedule of classes.

771 ○ AJS-150 Defensive Tactics

772 ▪ This class is no longer offered by Phoenix College nor any of

773 the other sister colleges, according to the admissions office. (21

774 February 2024)

775 ▪ *Status: Invalid listing - course not offered (2.0 hrs.)*

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Pleducation.Com

- Online provider only.
- Website shows all courses listed are still offered.

• **Server Education**

- Website down. No response to contact attempt by telephone. Courses offered under this provider were offered by TAG Messenger, which went out of business in 2023.
 - **Provider out of business**
- Always Improving: Continuing Education for Process Servers
 - *Status: Invalid listing - course not offered (10.0 hrs.)*
- Debt Collection and Process Serving: What Servers Need to Know
 - *Status: Invalid listing - course not offered (10.0 hrs.)*

• **The Process Server Institute of Arizona**

- Principal of this fictitious business name is JJL Process Corp., a Florida (foreign) corporation. Per the ACC website, as of 10/2/2018, is pending inactive for failure to file annual reports from 2018 to present. No trade name registration was filed with the Secretary of State. No telephone contact was made. The three (3) classes are no longer offered.
 - **Provider out of business**
- Process Server 101
 - *Status: Invalid listing - course not offered (10.0 hrs.)*
- Rules of Civil Procedure 102
 - *Status: Invalid listing - course not offered (10.0 hrs.)*
- Guide to Arizona courts 201
 - *Status: Invalid listing - course not offered (5.0 hrs.)*

• **Tactical Firearms Training, LLC**

- The principal reports he is still teaching the classes listed.