ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Article 1: General Requirements
Section 7-201.01: Definitions

In this chapter, unless otherwise specified, the following definitions apply:

"Abstain" or "abstention" means the act of a board member who chooses not to vote on a matter that is before the board even though the board member is not disqualified from voting.

"Accredited" means meeting acceptable levels and quality of education and training as determined by a regional, institutional, national faith-related, or programmatic accrediting organization, including the Council of the Section of Legal Education and Admissions to the Bar, American Bar Association (ABA), recognized by the United States department of education or by the Council for Higher Education Accreditation (CHEA).

"Active license" means a license issued under this chapter authorizing a person to engage in the practice of a specified profession or occupation that has not been transferred to inactive status, surrendered, suspended, or revoked.

"Advisory letter" means a non-disciplinary, written communication from a board advising an applicant or licensee of conduct that may result in future disciplinary action if not modified or eliminated.

"Allied Legal Service Providers" means individuals the supreme court has authorized to provide limited legal services to the public under this chapter and by rule but who are not lawyers.

"Applicant" means a person who has applied for a license issued under this chapter by submitting a completed application form to the division and paying the applicable fees.

"Board" means a professional or occupational board or committee governed by this chapter.

"Censure" means a formal disciplinary action consisting of a written finding that a licensee has violated one or more provisions of this chapter, rules, or statutes.

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

"Conflict of interest" means the circumstance where an official action or decision in which a board member or licensee participates may specially benefit or harm a personal, business, or employment interest of the board member or licensee, the board member's or licensee's relative, or the board member's or licensee's close friends.

“Consent agreement” means a written, voluntary agreement between a board and a licensee to resolve a complaint or compliance audit in lieu of disciplinary action or to resolve a pending disciplinary matter.

“Corrective action plan” means a written plan to correct the deficiencies identified by an audit or monitoring as agreed by division staff and the licensee.

“Deputy director” means the deputy director of the administrative office of the courts (AOC) or the deputy director’s designee.

“Designated principal” means a qualified individual designated by a business or public entity applicant or licensee to carry out responsibilities as specified in this chapter.

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

“Disciplinary clerk” means, in addition to the definition under Rule 46(h)(11), the individual designated to accept all filings in matters involving appeals from the denial of a licensing application and from a board’s order imposing discipline on a licensee.

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

“Disciplinary action” means informal or formal sanctions ordered by a board after a finding of probable cause that a licensee has engaged in conduct that is grounds for discipline under Arizona Code of Judicial Administration (ACJA) § 7-201.21.

“Dismissed with prejudice” means a board’s final disposition of a matter without any action against a licensee and barring the board from taking future action against the same licensee for the same conduct.

“Dismissed without prejudice” means a board’s final disposition of a matter without any action against a licensee where the board may take future action against the same licensee for the same conduct.

“Division staff” means the staff of the certification and licensing division of the AOC, including the division director.

“Expired” means a license that is no longer effective for lack of renewal by a specified date.

“Filing” or “filed,” in the context of a document a person is required to file with the division or the disciplinary clerk, means ~~a~~ when the document has been received by the division or the disciplinary clerk, as applicable, as evidenced by the division or the disciplinary clerk recording the date of receipt on the face of the document by date-stamp or other reliable method.

"Formal statement of charges" means the document authorized and issued by a board that initiates the formal disciplinary process and states the allegations of unprofessional conduct or violations by the licensee that are grounds for formal discipline.

"Formal disciplinary proceedings" means the process initiated when the board determines that there is probable cause that the licensee has engaged in unprofessional conduct or violations warranting formal discipline under this chapter. Formal disciplinary proceedings may include emergency suspension if the board finds that licensee's conduct poses imminent risk to public health, safety, or welfare requiring immediate action.

"Gift" means anything given to another person without requiring payment, or without the expectation of payment, that is of more than negligible value. For purposes of this definition, "negligible value" means anything with a value so small that it either cannot be assigned a value or it is not worth the effort to do so.

"Good cause" means a fact-based reason for a particular action or decision that is neither arbitrary, capricious, nor an abuse of discretion.

"Good moral character" means:

- In the context of having good moral character, means that a person has not committed any act that, if committed by a licensee, would be grounds to initiate disciplinary proceedings.

- In the context of lacking good moral character, means that a person has, without a license, engaged in activities requiring a license or has committed any act that, if committed by a licensee, would be grounds to initiate disciplinary proceedings.

"Good standing" means, when referring to a licensee, that the licensee is not subject to a pending complaint or discipline; the licensee is not on probation and is not subject to a consent agreement in lieu of discipline or to resolve a pending disciplinary matter; their license has not been suspended; their license has not been revoked without being reinstated; their license has not been surrendered; the licensee is current on financial obligations to the division; and the licensee is in compliance with the applicable code of conduct and continuing education requirements.

"Hearing officer" means an individual appointed by the supreme court to preside over the hearings required under this chapter.

"Inactive" means a licensee who is not the subject of pending disciplinary action, is voluntarily transferred to inactive status under ACJA § 7-201.17, and does not engage in the specified profession or occupation.

"Including" means "including, but not limited to."

"Informal disciplinary proceedings" means the process initiated when the board determines that there is probable cause that the licensee has engaged in conduct that, if true, would warrant a letter of concern.

"Injury" means harm to any member of the public, the judicial or legal system, or the applicable profession or occupation because of conduct engaged in by a licensee that is grounds for discipline under ACJA § 7-201.18.

"Issue" or "Issuance" means, in the context of a decision or order by a board, when documentation of the decision or order is signed and dated by the board chair.

"Judicial employee" means any person other than a judge who performs duties in the Arizona judicial department as a full-time employee, a part-time employee, or a volunteer and includes division staff and board members.

"Knowingly" means, with respect to conduct described in this chapter, that a person is aware of or realizes what they are doing. It does not require the person to be aware of or understand that what they are doing is prohibited.

"Law," as the context requires, includes federal or state statutes, rules, regulations, the Arizona Code of Judicial Administration, or judicial interpretation of statutes, rules, regulations, or code provisions.

"Letter of concern" means the sanction imposed in the informal discipline of a licensee.

"License" means a certificate or license issued under this chapter.

"Licensee" means a person currently holding an active certificate or license issued under this chapter. For purposes of this article, "licensee" includes certificate holders, licensees, and persons that must be registered under this chapter.

"Licensing" means the process of determining whether an applicant satisfies the requirements to engage in the practice of a specified profession or occupation under this chapter. For purposes of this article, "licensing" includes both certification and licensing.

"Moral turpitude" means conduct that is inherently wrongful, dishonest, or corrupt, or acts undermining social duties to fellow persons or society, that reflect adversely on a person's fitness to serve the interests of the public by being licensed to practice in a profession or occupation.

"Minimum competencies" means the essential knowledge, skills, and abilities required to perform effectively.

"Negligence" means the failure to exercise the care that a reasonably prudent licensee would exercise in similar circumstances.

"Person" means an individual, natural person but also includes a corporation, company, partnership, firm, or any other legal entity.

"Personal identifying information" or "PII" has the meaning prescribed in A.R.S. § 13-2001, except as provided in this chapter.

"Probable cause" means reasonable grounds for belief that the licensee has committed acts of unprofessional conduct or violations that, if true, would warrant informal or formal discipline.

"Probation" means a sanction imposed in the formal discipline of a licensee under which the licensee's practice of their profession or occupation under this chapter is subject to specified conditions for a specified time period.

"Professional regulatory entity" means a government or private with regulatory authority over those practicing in a profession or occupation.

"Program" means each of the licensing programs under this chapter.

"Recusal" means the act of a board member refraining from all voting or participation in any manner in a particular matter when the board member has an actual or apparent conflict of interest or is disqualified for some other reason.

"Redacted" or "redaction" means the process for withholding non-public information from a public record before the public record is disclosed and in a manner that both conceals the substance of the information and identifies the location and amount of information concealed.

"Revoked" or "revocation" means a sanction imposed in the formal discipline of a licensee resulting in the loss of their license to engage in a profession or occupation.

"Rule" means a Rule of the Arizona Supreme Court unless another court rule is specified.

"Rules of Parliamentary Procedure" means either the current version of *Robert's Rules of Order* or the *American Institute of Parliamentarians Standard Code of Parliamentary Procedure*.

"Sanction" means the official action of a board imposing informal or formal discipline against a licensee.

"Section" means a uniquely numbered provision of the ACJA.

"Serious crime" means any crime for which the statutory or common law definition includes a necessary element involving interference with the administration of justice, false swearing, misrepresentation, fraud, willful extortion, misappropriation, theft, or moral turpitude. It is also a serious crime to conspire to commit, to solicit another person to commit, or to attempt to commit, a serious crime.

"Suspended" or "suspension" means a sanction imposed in the formal discipline of a licensee resulting in the loss of their license to engage in a profession or occupation for a specified time period and until reinstatement by the board.

"Unprofessional conduct" means inappropriate conduct by a licensee that is subject to discipline, including the conduct specified in ACJA § 7-201.21(B) and conduct that is its substantial equivalent.

"Voluntary surrender" means a licensee voluntarily giving up their authorization to practice in a profession occupation by tendering their license to the applicable licensing board for acceptance.

Section 7-201.02: Jurisdiction

A. Authority. In accordance with A.R.S. §§ 8-134(I), 8-543(A), 14-5651(A), 28-3395(B), and 32-4005(A), and its inherent regulatory power over all lawyers and Allied Legal Service Providers providing legal services to the public, the supreme court is responsible for administering the alternative business structures, authorized community justice worker, certified community legal advocate, certified reporter, confidential intermediary, defensive driving, fiduciary, legal document preparer, and legal paraprofessional programs by:

1. Adopting provisions governing the implementation and administration of the programs, including establishing the minimum qualifications for certification or licensing, the certification and licensing processes, the disciplinary processes, and a code of conduct; and

2. Establishing and collecting the fees, costs, and fines necessary for the implementation and enforcement of all certification and licensing programs.

B. Scope. This article governs the license application, certification, and renewal process; the complaint and disciplinary process; and the administrative hearing process for the professions and occupations licensed under this chapter, unless the article or rules governing a profession or occupation provides to the contrary.

C. Purpose. The essential purpose of the licensing and disciplinary processes in this chapter is protection of the public. This chapter furthers this purpose by requiring applicants to demonstrate the necessary minimum competencies; requiring licensees to abide by a strict code of conduct; establishing a robust disciplinary process for addressing licensee violations and unprofessional conduct; and requiring those whose licenses have been suspended or revoked to demonstrate rehabilitation before reinstatement.

D. Immunity. The director, deputy director, division director, division staff, and members of professional and occupational boards governed by this chapter are immune from civil suit and liability for conduct relating to their official duties.

Section 7-201.03: Administration

A. Director. The AOC director is authorized to:

1. Approve policies and procedures in conformity with this chapter;
2. Appoint and supervise division staff;
3. Approve the division's budget;
4. Ensure implementation of this chapter and other applicable laws, rules, and sections of the ACJA;
5. Approve policies and procedures for review of credit reports;
6. Approve policies and procedures for the division to receive criminal history record information for purposes of evaluating the fitness of current or prospective licensees;
7. Approve policies and procedures for handling complaints, including those initiated by the division director;
8. Approve time frames for processing licensing applications; and
9. Initiate a compliance audit of a licensee under ACJA § 7-201.26 on the recommendation of the division director.

B. Deputy Director. The AOC deputy director must review the division's investigation summary and determine if the investigation summary demonstrates probable cause that a licensee's unprofessional conduct or violation warrants discipline.

C. Division Director. The division director ~~may~~:

1. Administers all licensing programs under this chapter;

2. Supervises and directs the activities of division staff under this chapter, including those activities described in (D);

3. Provides staff to assist and support the boards and may conduct or coordinate research as recommended by a board;

4. Issues investigative subpoenas under ACJA § 7-201.25;

5. Dismisses or refers complaints after the initial screening under ACJA § 7-201.22; and

6. Exercises the authority and performs the duties specified under this chapter and those necessary to the operation of the division and the licensing and disciplinary processes for the professions and occupations governed under this chapter.

D. Division Staff. Division staff assists in the administration of all licensing programs under the supervision of the division director by, for example:

1. Submitting completed applicant fingerprint cards and applicable fees under ACJA § 7-201.10;

2. Making recommendations to the boards in all licensing matters, including the application, renewal, complaint, investigation, disciplinary, and reinstatement processes; the unauthorized practice of a profession or occupation; and other matters involving licensees as directed;

3. Providing updates to the board on program activities;

4. Maintaining a current list of licensees for public access on each program website;

5. Conducting investigations of alleged unprofessional conduct or violations that, if true, would warrant discipline; and

6. Conducting compliance audits and monitoring activities under this chapter.

Section 7-201.04: Professional and Occupational Boards

A. Establishment. The professions and occupations regulated under this chapter are governed by boards established by the supreme court or established by statute and administered by the supreme court. This section governs all professional and occupational boards under this chapter unless an article or rule specific to a profession or occupation provides to the contrary.

B. Terms and Appointment of Members.

1. Terms. Members of professional and occupational boards serve at the pleasure of the chief justice for a regular term of 3 years except for the initial terms of a newly-established board or as provided in statute, rule, or the article applicable to the board governing a profession or occupation. Members may be appointed to successive terms at the discretion of the chief justice.

2. Initial appointments. When the supreme court establishes a board, the chief justice must appoint members to initial terms classified as one, two, or three-year terms, with a roughly equal number of board members in each classification, and according to the composition requirements of this section.

3. Composition of boards.

    a. The total number of members on each board is as provided in this chapter or a statute, rule, or the article specific to that profession or occupation.

    b. Each board must consist of members in the membership categories provided in a statute, rule, or the article specific to that profession or occupation. Examples of membership categories include members of the regulated profession or occupation, judicial officers, public members, and other professionals.

c. To the extent possible, each board's members should reflect the state's geographic, ethnic racial, and gender diversity.

d. Members of the regulated profession or occupation must not be in the majority of a board under this chapter.

4. Qualifications. To promote fairness and public confidence in the boards and committees, candidates are qualified for appointment who:

   a. Have outstanding competence and reputation; and

   b. Are sensitive to the needs of and held in high esteem by their personal and professional communities.

5. Vacancies.

   a. Definition. A board vacancy exists on a member's:

      (1) Death;
      (2) Resignation and its acceptance by the board on behalf of the chief justice;
      (3) Removal in the discretion of the chief justice before expiration of the member's term;
      (4) Removal of a member who is a member of the regulated profession or occupation by the chief justice on the recommendation of the board stating good cause bearing a reasonable relationship to the member's fitness to discharge the duties of the position;
      (5) Failure to belong to the membership category to which the member was appointed;
      (6) Removal by the chief justice on the recommendation of the board chair for an attendance problem under ACJA § 7-201.06(B);
      (7) Conviction of a felony or any crime of moral turpitude; or
      (8) If the member is a member of the regulated profession or occupation, conduct engaged in while practicing the regulated profession or occupation resulting in the member's conviction of any offense, a judgment of civil liability against the member, or any form of discipline ordered against the member under this chapter.

   b. Appointment to fill a vacancy.

      (1) A member appointed to fill a vacancy must be a member of the regulated profession or occupation if the departing member was a member of the regulated profession or occupation. Otherwise, the member appointed must satisfy an eligible category of board membership.
      (2) A member appointed to fill a vacancy is appointed only for the remainder of the departed member's unexpired term, and the order making the appointment must state whose unexpired term is being filled and when that term expires.
      (3) Members are expected to assist in the recruitment and recommendation of candidates for appointment.

c. Holdover Member. A member whose term has expired or who has resigned, if willing and able, continues to serve until the member's successor is appointed.

C. Organization.

1. Chair. The chief justice must appoint a current or newly-appointed member, who is not a member of the regulated profession or occupation, to serve as chair for a term equal in length to the member's regular term. The chair presides over all meetings of the board and is authorized to administer oaths or affirmations.

2. Vice chair. The chair must select a vice chair from among the members eligible to serve as chair. The vice chair serves a term equal in length to the member's regular term. The vice chair presides over all meetings in the chair's absence.

3. Subcommittees.

    a. Creation. The chief justice or chair may create subcommittees or work groups of members as needed to meet the board's responsibilities and accomplish its purpose.

    b. Appointments. The chief justice or chair may appoint the chair and members of each subcommittee or work group from the board membership or, if necessary to provide additional expertise, may appoint subcommittee or work group members who are not board members.

    c. Meetings; action. Meetings of subcommittees or work groups are exempt from the quorum requirement. By a simple majority of the eligible votes cast, a subcommittee or work group may recommend action to the full board.

    d. Dissolution. A subcommittee or work group may be dissolved by the chief justice or chair if it is deemed to have fulfilled its purpose.

D. Board Duties. The board's duties include:

1. Making recommendations to the supreme court on any matter concerning regulation of the profession or occupation, including:

    a. Applicant qualifications;

    b. Applicant testing;

    c. Fees;

    d. The code of conduct; and

    e. Continuing education.

2. Establishing the passing score on an examination required of applicants under this chapter that is not a national examination.

3. Granting or denying requests to sit for a fifth examination under ACJA § 7-201.11.

4. Granting or denying applications for initial licensing, licensing renewal, or licensing reinstatement.

5. Reviewing the division director's dismissal of a complaint.

6. Reviewing the probable cause evaluator's determination and the division director's recommendation and then determining the appropriate action under ACJA § 7-201.27.

7. Making all final decisions and issuing orders as required under ACJA § 7-201.39.

8. Obtaining additional information in licensing and disciplinary matters by:

    a. Questioning applicants for initial licensing or renewal;

    b. Issuing subpoenas for witnesses and documentary evidence in investigations of licensing applications and disciplinary matters;

    c. Requesting additional investigation of a licensing application or disciplinary complaint, including a complaint dismissed by the division director; and

    d. Requesting a licensee to appear before the board to answer questions about a pending complaint.

9. Approving consent agreements.

10. Determining whether to consolidate or sever a disciplinary matter.

11. Authorizing legal action against:

    a. Those engaging in the unauthorized practice of the profession or occupation regulated by the board without a license;

    b. A former licensee for violating the terms of a consent agreement; or

    c. Those using a written instrument, as defined in A.R.S. § 13-2001(12), or device reasonably likely to induce others to believe the person is licensed to engage in a profession or occupation under this chapter;

12. Dismissing a complaint after the death or incapacity of the licensee or when the division loses jurisdiction over the licensee.

13. Taking other actions authorized under this chapter, a rule, or a statute.

Section 7-201.05: Meetings and Actions

A. Meetings.

1. Regular meetings. Each board must hold regular meetings as specified in the article applicable to the profession or occupation the board governs. If the article does not specify the number or frequency of regular meetings, the board must hold regular meetings at least six times each year. In the chair's discretion, regular meetings may be called in addition to the minimum required.

2. Emergency meetings. The chair may call emergency board meetings for good cause, including to consider the emergency suspension of a license under ACJA § 7-201.29.

3. Public notice. The notice and agenda requirements of ACJA § 1-202 apply to board meetings.

4. Public participation. All meetings other than executive sessions must be open to public attendance under ACJA § 1-202.

5. Call to the public. All agendas must include at least one "Call to the Public."

   a. The chair should facilitate the opportunity for members of the public to comment on an agenda item before the board concludes its business under that agenda item, but a failure to provide the opportunity to a member of the public under this section is not a basis for a legal or procedural challenge to board action.

   b. In the chair's discretion, public comment may be taken out of order to facilitate (a) but the "Call to the Public" must also occur as stated in the published agenda.

6. Quorum. A board must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.

7. Meeting procedures. The most current publication of *Robert's Rules of Order*, which is a manual of the common rules of parliamentary procedure, governs the conduct of business by boards under this chapter, except as provided in the ACJA or this chapter. When a provision in this chapter states the actions the board may take, it includes all other actions appropriate under the rules of parliamentary procedure.

B. Actions.

1. Voting.

a. A board acts by a simple majority of at least one more than half of the eligible votes cast. The chair has a vote.

b. Votes are cast by voice unless a board member requests a recorded vote. In a recorded vote, the number and names of members voting for and against the motion or other item, or abstaining from voting, are stated on the record. If the vote for and against is tied, the motion or item that is the subject of the vote is defeated.

c. A declaration by the chair that a motion is carried or defeated, which declaration is reflected in the recording or minutes of the meeting, is conclusive evidence of the board action.

2. Recusal. As court volunteers, board members must comply with Rule 2.11 (Personal Interests) of ACJA § 1-303, Code of Conduct for Judicial Employees. Under this rule, a board member must withdraw from all participation on a matter that is or may be before the board in which the member has an actual or potential conflict of interest or where the member's voting or participation may result in the appearance of impropriety.

a. Recusal is required to preclude:

(1) The possibility of a member's personal interests, relationships, or influences from impacting the member's ability to impartially perform board duties; and
(2) The appearance of a conflict of interest from lowering public confidence in board actions.

b. Procedure.

(1) As soon as a member becomes aware that they may have an actual or potential conflict of interest involving a matter within the board's authority or becomes aware that the member's participation in a matter might give the appearance of impropriety, the member must disclose the circumstances of the actual or potential conflict to division staff and the chair and must then refrain from voting on or participating in the matter whether during or outside of a board meeting.
(2) For the duration of an actual or potential conflict of interest or the circumstances that may give the appearance of impropriety, division staff and the chair must ensure that the member does not receive or have access to non-public materials concerning the matter and that the member does not participate in discussion or voting on the matter.
(3) Even if a member has reported to division staff the existence of a conflict of interest or circumstances that may give the appearance of impropriety, the member must state their recusal on the record at the beginning of the meeting at which the matter appears on the agenda or, at the latest, when the chair calls the agenda item. The member must not participate in the board discussion or action on the agenda item. The member must step down from their board member seat but may remain in the meeting room during the board's public consideration of the agenda item.
(4) If the agenda item in which a member has a conflict or in which the member's participation would give rise to an appearance of impropriety is the subject of an

executive session, the member's attendance at that executive session is prohibited.

c. The question of the existence of a conflict of interest or circumstances that may give the appearance of impropriety may be submitted to the AOC legal counsel for advice or determination. The determination of legal counsel is subject to review by the director on the request of the member whose recusal is at issue or of the chair.

d. The provisions of this section should be interpreted in a manner consistent with ACJA § 1-303 and A.R.S. §§ 38-501, *et seq.* (Arizona's conflict of interest laws). This section controls if it is more restrictive.

3. Member attendance or voting by proxy is prohibited.

Section 7-201.06: Board Member Conduct

A. Duty. It is the duty of each member of a professional or occupational board under this chapter to fairly and impartially apply the provisions of this chapter, court rules, and statutes for the protection of the public. Information members receive from the regulated community and other interested parties must not be given greater weight than protection of the public, which is the essential purpose of this chapter.

B. Attendance. Members must regularly attend and actively participate in board meetings and assist with the administration of board affairs at the chair's request.

1. A member has an attendance problem if they:

a. Have 2 consecutive absences without providing advance notice of the absence to division staff;

b. Have 3 consecutive absences with or without advance notice to division staff;

c. Miss 1/3 of the total number of regular board meetings in a 12-month period; or

d. Although physically in attendance at board meetings, has a regular pattern of not actively participating because of lack of attention during the meeting or lack of preparation.

2. When a member has an attendance problem:

a. The division director or division staff must discuss the member's attendance record with the member.

b. The division director must share the member's response with the board chair, and the chair must determine whether to take one or both of the following actions:

(1) Asking the member to resign by letter to the chief justice by a specified date; or

(2) Making a recommendation to the chief justice for termination of the member.

C. Benefits.

1. Compensation. Members must not receive compensation for their board service regardless of the source, except that a member's employer may pay the member's regular compensation for a time period that includes hours of board service without requiring the member to take paid leave for those hours.

2. Expense reimbursement. Members may receive reimbursement for their travel and other expenses incidental to the performance of their duties according to AOC Expense Reimbursement and Travel Policies.

3. Gifts. A member must not solicit or accept a gift from a person licensed by the board or known to have business with the board on which the member serves unless the gift is permitted under Rule 3.4(B), ACJA § 1-303.

4. Awards. A board or its members may accept an award, in recognition of service, from an entity that is not directly related to profession or occupation they regulate.

5. Business relationships. To avoid creating a conflict of interest or the appearance of impropriety:

    a. Under Rule 2.11, ACJA § 1-303, a member must avoid making a contractual, financial, investment, or business arrangement, whether personal or professional, with a person licensed by the board on which the member serves. A member who makes such an arrangement or who has an ongoing arrangement pre-existing the member's board service, must follow the procedures in ACJA § 7-201.06(B)(2).

    b. A member must exercise caution before recommending the services of a person licensed by the board on which the member serves to a member of the public.

    c. A member must not accept a personal or professional recommendation or a professional referral from a person licensed by the board on which the member serves.

D. Professional Associations. A member must not hold an elected or appointed position in an organization relating to the profession or occupation regulated by the board on which the member serves during the member's service on a board under this chapter.

E. Communications. The following applies to all board member communications about board business, whether verbal, written, or electronic, and regardless of whether an electronic communication is made on a public or personal account or device:

1. Records of board member communications are court administrative records. In addition to the requirements of this chapter, these records are subject to Rule 123's public access provisions and Administrative Order (AO) 2025-86, or its successor, governing their

retention and disposition.

2. Board members must not communicate with each other about board business outside of official meetings of the board or its committees or work groups.

3. Board members must safeguard and prevent the unauthorized disclosure of all information made available or provided to them in their capacity as board members that is made confidential by law.

4. Board members must not disclose discussions or information presented during an executive session of the board.

5. Board members must not communicate about a licensing or disciplinary matter with:

    a. A hearing officer;

    b. Other board members or division staff outside of a board meeting;

    c. An applicant, licensee, or their attorney of record outside of a board meeting;

    d. The Office of the Arizona Attorney General, including an Assistant Attorney General representing the board or its members in a licensing or disciplinary matter; or

    e. A third party.

6. Board members contacted by third parties must:

    a. Refer all contacts from the media to the AOC public information officer.

    b. Refer to the hearing officer an *ex parte* communication received from an applicant or licensee, or anyone on their behalf, or a third party about a licensing or disciplinary matter after a request for hearing is filed. If received after the hearing officer's recommendation report and before the board's final decision and order, the communication should be referred to division staff. For purposes of this provision, an "*ex parte* communication" means an oral or written communication not on the public record.

    c. Refer all other inquiries about matters within the board's jurisdiction to division staff.

7. An individual board member does not speak for the board unless specifically authorized to do so. To avoid giving the impression that a board member is speaking for the board, the member must preface an oral or written statement with the following disclaimer: "The views and opinions expressed are my own and do not represent the views or opinion of the board, the AOC, or the Arizona Supreme Court."

Section 7-201.07: Deadlines

A. Computation of Time.

1. Rules. The rules for computing time periods in this chapter, orders issued by a board, orders issued by a hearing officer, a consent agreement, or communication from the division are as stated in Rule 6(a), Rules of Civil Procedure:

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

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

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

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

2. Days. Under Rule 6(a), time periods of less than 11 days means business days and time periods of 11 or more days means calendar days unless this chapter specifies to the contrary.

B. Extensions for Good Cause.

1. A deadline in this chapter may be extended for good cause as follows:

    a. No later than 5 days before the deadline to be extended, a licensee may request an extension of the deadline on a form specified by the division, unless another section of this chapter provides a different deadline for making the request.

    b. The request must specify the length of the extension requested.

    c. The request must provide sufficient information to establish good cause for the request.

    d. If the request is complete and the division director is satisfied that good cause exists, the division director may grant the requested extension.

2. A licensee may make more than one request to extend a particular deadline unless another section of this chapter provides for a one-time extension only.

Section 7-201.08: Notice to Applicants and Licensees

A. Written Notice.

1. Definition. When this article requires the division to give written notice to an applicant or licensee, unless a different method or deadline for giving written notice is specified, it means that:

    a. An email is promptly sent to the email address the applicant or licensee most recently provided to the division; and

    b. Either:

        (1) If available, the information is conveyed by promptly posting it to the applicant's or licensee's individual portal dashboard; or
        (2) If no portal is available, the information is deposited in the U.S. mail and addressed to the applicant or licensee at the address last provided to the division.

2. Attachment or enclosure. If the purpose of the written notice is to advise an applicant or licensee that a document has been issued, a copy of the document must be included.

B. When Complete. Written notice given by email is complete when the email is sent; written notice given by posting to a portal is complete when posted; and written notice given by mail is complete when deposited in the U.S. mail.

C. Date of Written Notice.

1. Whether written notice is given by email, U.S. mail, or by posting, the notice must clearly state the date the notice is sent or posted.

2. The definition of written notice in (A)(1) provides for redundant methods of giving written notice as a safeguard against the failure of any single method. Although the division should ensure that both forms of notice bear the same date, the redundant methods may result in notice by email and notice by U.S. mail stating different dates. If the methods of giving written notice result in notices bearing different dates, the earliest date is used to:

    a. Determine compliance with a deadline for giving written notice; and

    b. Calculate when an action must be taken within or after a specified number of days after the written notice.

Section 7-201.09: Licensing Eligibility

A. Professional Requirements. Those persons satisfying the education, training, knowledge, and experience, requirements of the article governing the profession or occupation in which licensing is sought are eligible for licensing.

B. **Personal Qualifications.** In addition to the professional or occupational requirements, applicants for licensing under this chapter must:

1. Be at least 21 years old, if an individual, unless the article governing the profession or occupation expressly provides that individual applicants must only be at least 18 years old.

2. Be a citizen or a legal resident of the United States, if an individual.

3. Not pose a risk to the public.

C. **Factors for Board Consideration.** The board will determine if a licensing applicant poses a risk to the public by considering the facts and circumstances of conduct in which the applicant:

1. Has been convicted of a serious crime, whether a misdemeanor or felony and regardless of whether civil rights have been restored.

2. Has been found civilly liable for material misrepresentation or omission, fraud, misappropriation, theft, conversion, or other conduct specified in the article governing the profession or occupation in which licensing is sought.

3. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in a business matter or in a personal or business financial matter.

4. Is an entity applicant that has—or its employee, officer, board member, agent, or anyone authorized to act for the entity has—a record of dishonest or fraudulent conduct.

5. Is incompetent or a source of injury or loss to third parties or the public.

6. Has had a professional or occupational license denied, revoked, or suspended or has surrendered a professional or occupational license if the circumstances suggest that the license was surrendered or tendered for surrender to resolve a complaint or investigation or to avoid possible discipline.

7. Has received other discipline imposed by a professional or occupational regulatory body and the underlying conduct relates to the licensing sought.

8. Has received a termination, suspension, probation, or other discipline from an employer and the underlying conduct relates to the licensing sought.

9. Has violated a decision, order, or rule of a court, judicial officer, administrative tribunal, board, or professional regulatory body.

10. Has supported a licensing application of another person by making a false or misleading

statement or verification.

11. Has made a false or misleading oral or written statement to division staff or the board.

12. Has failed to disclose information on the application.

13. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in connection with the application or examination process.

Section 7-201.10: Initial Licensing; Application Process

A. Licensing Process. The purpose of the licensing process is to ensure that only those persons satisfying the requirements specific to the profession or occupation in which licensing is sought, and possessing the required personal qualifications, receive a license to practice in a profession or occupation under this chapter.

B. Application.

1. Application form. Applicants for licensing in a profession or occupation under this chapter must file a completed application on the form specified by the division.

2. Fees. An application must be accompanied by payment of the fees specified in the article governing the profession or occupation in which licensing is sought and may include licensing, examination, and training fees. Fees are payable to the Arizona Supreme Court. Fees are not refundable and cannot be waived.

3. Photograph. An application must be accompanied by 1, color, passport-size photograph (2 x 2 inches) that must:

   a. Be of only the applicant's head, neck, and shoulders;

   b. Have been taken within the last 2 years; and

   c. Clearly identifies the applicant.

4. Fingerprints.

   a. When required by statute. An application for the following licenses must include a full set of applicant's fingerprints plus the applicable fee required for the division to obtain the applicant's criminal history records information from the department of public safety (DPS) for review by the division in making a suitability determination:

      (1) Fiduciary, as required by A.R.S. § 14-5651(B);
      (2) Confidential Intermediary, as required by A.R.S. § 8-134(K);
      (3) Private Process Server, as required by A.R.S. § 12-3301(B)

(4) Certified Reporter, as required by A.R.S. § 32-4005(B)(5); and
(5) Legal Document Preparer, as required by A.R.S. § 12-323(B) [12-102(B)].

b. Unreadable fingerprints. If an applicant for a license listed in (1) submits fingerprints that are not readable, the following steps must be completed for the application to be complete:

(1) The applicant must pay the costs of subsequent re-fingerprinting and resubmission to DPS.
(2) If, after 2 attempts, the federal bureau of investigation (FBI) determines the applicant's fingerprints are not readable, the applicant must submit a written statement to the division, under oath, that the applicant has not been arrested, charged, indicted, convicted of, or pled guilty to any felony or misdemeanor other than as disclosed on the application.

5. Other. An application must include other items required under the article governing the profession or occupation in which licensing is sought.

C. Changes. Applicants must notify the division within 5 days of the occurrence of changes to information provided on their application.

D. Incomplete Application.

1. Application form. An application form submitted without answering all questions or providing all information requested is incomplete and will not be processed.

2. Fees. An application submitted without the applicable fees is incomplete and will not be processed.

3. Photograph. An application submitted without a photograph in compliance with (B)(3) is incomplete and will not be processed.

4. Fingerprints. An application for Fiduciary, Confidential Intermediary, Certified Reporter, and Legal Document Preparer licenses is incomplete and will not be processed if the application is submitted without a full set of fingerprints and, if the fingerprints are not readable, without completing the steps in (B)(4)(b).

5. Minimum qualifications. If the information provided in the application is unclear about whether the applicant has the minimum personal and professional qualifications required for licensing in the profession or occupation, division staff will request whatever information or explanation is reasonably necessary for the division to form a recommendation to the licensing board about whether the applicant meets the licensing requirements. The application is incomplete and will not be processed until the applicant provides sufficient information.

E. Preliminary Review.

1. Division staff must review a submitted application to determine if the application is complete under (C).

2. If an application is incomplete:

   a. Division staff must give the applicant written notice of the application's deficiencies, instructions on how to correct the deficiencies, and that the application will be on hold until it is complete.

   b. The applicant must correct the deficiencies within 60 days from the date of the written notice of deficiency or, from the date of an extension if the applicant is granted a one-time extension for good cause under ACJA § 7-201.07(B).

3. If an application is not completed within 90 days of the date of the written notice of deficiency or by an extended deadline, the application is administratively terminated by the division. There is no right to a hearing from an administrative termination. After termination, the applicant may continue to seek licensing only by submitting a new application satisfying the requirements under ACJA § 7-201.09(B)(1).

F. Completed Application. After confirming receipt of a completed application, division staff:

1. Investigates the applicant's background and verifies the information provided on the application.

2. Must review the application for:

   a. Any remaining questions about satisfaction of the licensing requirements; and

   b. Any grounds for board denial of the application under ACJA § 7-201.12.

3. Must contact the applicant for any additional information or explanations necessary for the division to form a licensing recommendation.

G. Applicant and Licensee Records. Unless otherwise provided by law, the following applies to applicant and licensee records:

1. Applicant and licensee records are open to the public but may not be disclosed until after personally identifying information (PII) and other confidential information, except for the applicant's or licensee's name, have been redacted.

2. The division must retain applicant and licensee records for a period of 5 years after the calendar year in which the license expires or the date of the last activity under AO 2025-086 (Record Retention and Disposition Schedule for use by the Administrative Office of the Courts). If a successor Administrative Order establishes a different retention period,

the successor Administrative Order retention period governs.

3. Applicant or licensee records destroyed at the end of the retention period must be destroyed in a manner that ensures the non-disclosure of PII or other confidential information.

4. Applicants or licensees may obtain copies of their own records without redaction of their PII.

5. An applicant or licensee may sign a release, on a form specified by the division, authorizing the division to provide the applicant's or licensee's unredacted records directly to the applicant's or licensee's employer or potential employer.

H. Division Report and Recommendation.

1. Contents. The division staff must prepare a report and recommendation for the board's consideration and decision. The report and recommendation must include:

   a. A written recommendation on the applicant's qualifications and eligibility for licensing;

   b. Information about evidence of any acts, or any complaints alleging acts, of unprofessional conduct or violations of an ACJA section, rule, statute, or order, if the acts occurred when the applicant held any professional or occupational license but a complaint was not made until after the license expired or the division or other professional regulatory entity otherwise lacked jurisdiction to investigate or impose discipline;

   c. Information about any deficiencies in the application as submitted, the written notice of deficiency issued by division staff, and the applicant's response correcting or explaining the deficiencies;

   d. Information about any unresolved factual or legal issues about the applicant or the application;

   e. Information about whether the applicant will attend the board meeting at which the application will be considered and will be available at that meeting to answer questions; and

   f. If necessary, the division's request for guidance from the board.

2. Criminal history pending. If the article governing the profession or occupation requires a fingerprint-based criminal history records determination and the division is awaiting applicant's required criminal history records information but the division's review of the completed application is otherwise final, division staff need not postpone preparation of the report and recommendation, division staff may submit the report and recommendation for the board's consideration, and the board may decide to license the applicant on the

following conditions:

a. That a board decision to license the applicant is not effective until the division has received and reviewed the criminal history records information and determined that the applicant is suitable for licensing.

b. If division staff later receives and reviews the criminal history records information but does not find the applicant suitable for licensing:

(1) Division staff must revise and resubmit a recommendation to the board based on the criminal history records information; and
(2) The board must consider whether to reconsider its licensing decision and issue a denial or allow its prior licensing decision to become effective.

I. Administrative Licensing Approval.

1. Eligibility. An applicant is eligible for administrative licensing approval if:

a. The applicant has passed any required licensing examination;

b. The division is not awaiting any fingerprint-based criminal history records information required under the article governing the profession or occupation;

c. The division report and recommendation on the application states that the division found:

(1) No evidence of acts of unprofessional conduct or violations that could be a basis for denial;
(2) No deficiencies in the application;
(3) No factual or legal issues about the applicant or the application;
(4) No concerns about the applicant's qualifications or eligibility; and
(5) No possible grounds for denial under ACJA § 7-201.12.

d. The division report recommends licensing without reservation.

2. Licensing. The division director is authorized to approve issuing a license to an eligible applicant on the signature of the division director and without requiring board approval, except where the article governing a profession or occupation provides that the final licensing decision rests with the supreme court.

3. Report to board. At each regular board meeting, the division must report to the board on the licenses administratively issued by the division director since the board's last meeting. The board may determine the extent of the information desired in this report.

Section 7-201.11: Examinations

A. Applicability. The article governing the profession or occupation in which the applicant seeks to be licensed states whether there is an examination requirement.

B. Examination Requirement. If an examination is required for licensing in a profession or occupation, an applicant must earn a passing score on the applicable examination.

C. Examination Administration.

1. National examination administration. National examinations are administered at the time and place set by the administering entity.

2. Division examination administration. For initial examinations administered by the division, division staff must:

    a. Set the date, time, and place for the examinations. If the article governing the profession or occupation in which the applicant seeks to be licensed requires initial training, the division must offer examinations combined with initial training.

    b. If the examination is being administered after an applicant submits their licensing application, give written notice to the applicant about their eligibility to sit for an examination and the date, time, and place of the examination.

    c. For examinations other than national examinations:

        (1) Prepare the examination content specifications and update content specifications as necessary;
        (2) Submit examination content specifications and updates to the director for approval;
        (3) Make the examination content specifications available to applicants in advance of the examination.

    d. In advance of the examination, announce the passing score for the examination as set by the board.

    e. Prepare and use multiple versions of the examination, except that when national examinations are administered, division staff must follow the national examination protocol.

    f. Secure all versions and copies of the examination from disclosure or release to applicants or the public.

    g. Give applicants written notice of examination results and whether reexamination is required for licensing.

    h. Allow an applicant who fails the initial examination, and requests the opportunity, to review the grading of the applicant's answer sheet if:

(1) The review is at the division offices or by a secure online video conferencing process arranged by the division, during regular business hours, and observed by division staff;
(2) The applicant is not allowed to make written or other copies of the materials reviewed; and
(3) In the case of a national examination, the national examination authority permits review.

k. For each examination administration, maintain an accurate record of all versions used and each applicant's score.

D. Reexaminations.

1. An applicant who does not achieve a passing score on an initial examination may retake the examination 3 more times if:

a. The applicant is not otherwise disqualified;

b. Within 30 days of written notice to the applicant of examination results, the applicant registers for reexamination unless the applicant is granted a good cause extension under ACJA § 7-201.07(B);

c. The applicant pays the examination fee for each reexamination when registering for reexamination; and

d. The applicant retakes the examination within 90 days after the written notice to the applicant that the applicant failed the examination being retaken.

2. After 4 Examinations.

a. An eligible applicant who has failed 4 examinations must request and receive board permission to take a fifth examination.

b. An applicant may request board permission to take a fifth examination if the applicant:

(1) Is not otherwise disqualified;
(2) Provides a written statement and supporting documentation of the applicant's additional study and preparation to qualify for a fifth examination; and
(3) Provides a written statement of the circumstances and reasons the applicant believes they now have sufficiently mastered knowledge of the minimum competencies of the profession or occupation to pass the examination if allowed a fifth opportunity.

c. The board may approve the applicant's request to take a fifth examination if an applicant demonstrates additional study, preparation, circumstances, and reasons to believe the applicant has now sufficiently mastered the minimum competencies of the profession or occupation to pass the examination.

d. Division staff must give the applicant written notice of the board's decision within 5 days of the board's decision.

(1) If the board approves the request, the written notice must state the earliest date on which the applicant may sit for the fifth examination.
(2) If the board denies the request, the written notice must state the reasons for the denial. The board's decision to deny the request is final and there is no right to a hearing.

e. If an applicant fails 4 examinations without requesting permission to sit for a fifth examination or the board denied applicant's request to take a fifth examination, the applicant may file a new application no sooner than 12 months after the written notice of failing the fourth examination or the board's decision to deny the request for a fifth examination, whichever is later.

E. **Validity of Passing Score.** A passing score on an examination or reexamination is valid for 1 year from the date on which applicant is given written notice of receiving the passing score.

F. **Permanent Ban.** An applicant is disqualified from taking a future examination under this chapter if the board determines the applicant engaged in fraud, dishonesty, or corruption in connection with an examination under this chapter.

Section 7-201.12: Grounds for Denial

A. **Mandatory Denial.** The board must deny licensing if an applicant does not meet the following requirements for licensing:

1. The personal qualifications of ACJA § 7-201.09(B); and

2. The professional requirements specified in the article governing the profession or occupation in which licensing is sought.

B. **Discretionary Denial.** The board may deny licensing to an applicant if, in the board's judgment of the facts and circumstances of applicant's conduct, denial is necessary to protect the public, including if there is evidence the applicant or—if the applicant is an entity—an officer, director, partner, member, trustee, manager, agent, or anyone authorized to act on behalf of the applicant:

1. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in connection with the application or examination process;

2. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in a business matter or a personal or business financial matter;

3. Is incompetent or a source of injury or loss to the public;

4. Has been convicted of a serious crime, whether a misdemeanor or felony and regardless of whether civil rights have been restored, or a criminal offense specified in the article governing the profession or occupation in which licensing is sought or having a reasonable relationship to the practice of the profession or occupation;

5. Has had a professional or occupational license denied, revoked, or suspended or has surrendered a professional or occupational license if the circumstances suggest that the license was surrendered or tendered for surrender to resolve a complaint or investigation or to avoid possible discipline;

6. Has received discipline imposed by another professional or occupational regulatory body if the underlying conduct relates to the licensing sought;

7. Has received a termination, suspension, probation, or discipline from an employer if the underlying conduct relates to the licensing sought;

8. Has been found civilly liable in for material misrepresentation or omission, fraud, misappropriation, theft, or conversion or in a case involving matters specified in the article governing the profession or occupation in which licensing is sought;

9. Is currently on probation or parole;

10. If an entity applicant, or its employee, officer, board member, agent, or anyone authorized to act for the entity, has a record of dishonest or fraudulent conduct.

11. Has violated a decision, order, or rule of a court, judicial officer, administrative tribunal, board, or professional regulatory entity;

12. Has supported a licensing application of another person by making a false or misleading statement or verification;

13. Has made a false or misleading oral or written statement to division staff or the board;

14. Failed to disclose information on the application; or

15. Lacks good moral character.

C. **Consideration of Criminal Convictions.** When, under (B)(4), the board considers an applicant's criminal conviction, proof of the conviction is conclusive evidence of the applicant's guilt of the crime. But the board may consider the facts and circumstances of an applicant's conduct to determine if denial is necessary to protect the public, including:

1. The applicant's age at the time of the conduct;

2. The applicant's experience and general level of sophistication at the time of the conduct;

3. The overall impact of the conduct, including the degree of violence, injury, or property damage;

4. The applicant's level of disregard of ethical or professional obligations exhibited by the conduct;

5. Whether the applicant's resulted in harm to others;

6. The recency of the conviction;

7. Evidence presented by or on behalf of the applicant about applicant's post-conviction rehabilitation or positive societal contributions;

8. The conviction's relevance to the profession or occupation in which the applicant seeks licensing;

9. The applicant's candor during the application process;

10. The significance of applicant's omissions or misrepresentations during the application process; and

11. The applicant's overall licensing qualifications separate from the conviction.

Section 7-201.13: Decision on Licensing Application

A. Board Agenda. After division staff issues the report and recommendation on an application, the application may be placed on the board's agenda. Once division staff issues the report and recommendation to the board, the applicant cannot withdraw their application.

B. Board Action. After reviewing the division staff report and recommendation about an application, the board must consider the application at a board meeting when the application is on the agenda for consideration and possible action. The board's possible actions include:

1. Asking the applicant questions relevant to the licensing decision, including questions about the application, the applicant's qualifications, the division's background investigation, information provided or omitted by the applicant, and areas of concern;

2. Requesting additional information from the applicant;

3. Requesting that division staff conduct additional investigation;

4. Responding to division staff's request for guidance, if any;

5. Postponing the licensing decision to a future board meeting; and

6. Granting or denying the licensing application.

C. Decision Granting License.

1. Standard. An applicant who meets all licensing requirements must be granted a license. Conditional licenses are prohibited under this chapter.

2. Notice. When the board votes to grant a license, division staff must give the applicant written notice of the decision.

3. License.

   a. After a license is granted and effective, division staff must issue a document, badge, or card stating the licensee's name, license number, issue date, and expiration date.

   b. Division staff must also provide the new licensee with a copy of this article and the article governing the applicable profession or occupation.

D. Decision Denying License.

1. Standard. The standards for granting or denying an initial license are as stated in ACJA §§ 7-201.09 and 7-201.12.

2. Form of decision. If the board votes to deny licensing, it must issue a formal denial by written decision and order within 5 days of the board's vote. The written decision and order must include a statement of the:

   a. Board's reasons for denial; and

   b. Applicant's right to appeal from the denial by requesting a hearing.

3. Reason for denial. If a written decision and order states the failure to meet a requirement of this chapter as a reason for denial, the decision and order must both identify the requirement by citation to the code number and include a concise and explicit statement of the underlying facts supporting the failure to meet the requirement.

4. Notice. Within 3 days after the board issues its written decision and order, division staff must give written notice to the applicant under ACJA § 7-201.08.

E. Appeal of Decision.

1. Hearing. An applicant may appeal a decision to deny licensing within 15 days after written notice to the applicant of the written decision and order by:

   a. Filing a written request for a hearing with the disciplinary clerk with a copy of the board decision and order being appealed; and

b. Delivering a copy of the request for hearing to the division.

2. Untimely Request for Hearing. If an applicant files an untimely request for hearing for good cause and the division director determines that good cause exists for the late request for hearing, the division director may authorize the board's counsel to forego filing a motion to dismiss the untimely request for hearing, waive the defense that the request for hearing is untimely, and proceed to defend the board decision on the merits.

Section 7-201.14: Reapplication After Denial

A. General Requirements.

1. New application. An applicant denied licensing by a final decision of the board, regardless of whether the decision was appealed and a hearing was requested and held, may submit a new licensing application if:

   a. It has been at least 12 months since the board's final decision to deny, except as provided in this section;

   b. The applicant has corrected all deficiencies stated as reasons for the denial; and

   c. The article applicable to the profession or occupation in which licensing is sought does not otherwise prohibit the applicant's licensing.

2. Exception to 12-month waiting period.

   a. Reapplication within the 12 months after the board's final decision is allowed if the denial was solely for lack of education or experience and the applicant has since completed the education or experience requirement the board found lacking at the time of denial.

   b. If an applicant reapplies under this exception and the board again denies for lack of the same education or experience, the applicant may only reapply if it has been at least 12 months since the board's final decision to deny the reapplication.

B. Education and Experience Deficiency. On reapplication, an applicant denied for failure to meet the education and experience requirements must attach new documentation detailing how and why the applicant now meets the requirements.

1. Division staff must review the reapplication and supporting documentation to determine whether the applicant has demonstrated that they now meet the education and experience requirements.

2. If division staff determines that the reapplication demonstrates that applicant now meets the education and experience requirements, division staff must give written notice to the

applicant and recommend that the board grant licensing.

3. If division staff determines that the reapplication fails to demonstrate that applicant meets the education and experience requirements:

   a. Division staff must give written notice to the applicant of the deficiencies and recommend that the board deny licensing.

   b. The applicant may request an opportunity to address the board in response to division staff's recommendation of denial by making a written request on a form specified by the division within 10 calendar days after the written notice of the reapplication's deficiency.

   c. The applicant's failure to make a request to address the board does not preclude the board from exercising its discretion to ask questions of the applicant.

   d. Even if the applicant does not request the opportunity to address the board in response to division staff's recommendation of denial, division staff must notify the applicant of the date and time of the board meeting at which the reapplication will be considered and encourage the applicant to be present to respond to board questions.

C. Other Deficiencies.

1. If the board denied licensing for reasons other than failure to meet the education or experience requirements, a reapplication must attach new documentation to address how and why the board's initial reason for denial should not result in denial on reapplication and must include demonstration of both:

   a. Applicant's acceptance of responsibility for the conduct leading to the denial by the board; and

   b. Applicant's good moral character.

2. Division staff must review the reapplication and supporting documentation to determine whether the applicant has demonstrated that the board's initial reason for denial should not prevent denial on reapplication.

3. If division staff determines that the reapplication demonstrates that the board's initial reason for denial of the initial application is no longer an issue and should not result in denial of the reapplication, division staff must recommend that the board grant licensing and give written notice to the applicant.

4. If division staff determines that the reapplication has not demonstrated the lack of the board's initial reason for denial as a continued basis for denial on reapplication, including that the applicant has failed to demonstrate acceptance of responsibility for the conduct or has good moral character:

a. Division staff must recommend that the board deny licensing.

b. Division staff must give written notice to the applicant of this determination and recommendation.

c. The applicant may request an opportunity to address the board in response to division staff's recommendation of denial by making a written request on a form specified by the division within 10 calendar days after the written notice of the division staff recommendation.

d. The failure of the applicant to make a request to address the board does not preclude the board from exercising its discretion to ask questions of the applicant, particularly if the applicant's acceptance of responsibility and good moral character is an issue.

e. Even of the applicant does not request the opportunity to address the board in response to division staff's recommendation of denial, division staff must notify the applicant of the date and time of the board meeting at which the reapplication will be considered and encourage the applicant to be present to respond to board questions.

D. Board Decision.

1. If the board is satisfied that the reapplication demonstrates that the board's initial reason for denial should no longer result in denial, the board must grant licensing.

2. If the board denies a reapplication, it must issue a written decision and order and give notice to the applicant under ACJA § 7-201.13(D).

3. The applicant may appeal the decision by requesting a hearing under ACJA § 7-201.13(E).

Section 7-201.15: License

A. Duration. A license is effective when issued and remains in effect through its expiration date, except:

1. A license that is surrendered or revoked terminates before its expiration date.

2. A license is not effective during a period of inactive status or suspension.

B. Expiration Date. A license expires on the date stated in the article governing the applicable profession or occupation.

C. Unauthorized Conduct. A person must not:

1. Engage in the unauthorized practice of the profession or occupation regulated by a board

under this chapter without a license.

2. Use a written instrument, as defined in A.R.S. § 13-2001(12), or device reasonably likely to induce others to believe the person is licensed to engage in a profession or occupation under this chapter title.

Section 7-201.16: Voluntary License Surrender

A. Conditions. A licensee in good standing may voluntarily offer to surrender their license to the board by written notice to the board of the licensee's intent to voluntarily surrender their license. The written notice to the board must be submitted to the division on a form provided by the division and signed by the licensee under penalty of perjury.

1. A license surrender is not effective to terminate a license until acceptance by the board during a public meeting.

2. The board or division staff may obtain additional information as reasonably necessary to determine if the licensee has engaged in conduct that is appropriate for discipline but not yet the subject of a complaint, investigation, or disciplinary action.

3. The board's receipt of a licensee's voluntary offer to surrender their license does not preclude a division-initiated complaint, investigation, or disciplinary proceedings against a licensee for conduct engaged in before the submission of the written notice of intent to voluntarily surrender.

B. Board Action. Within 120 days of the division's receipt of the licensee's written notice to the board of intent to voluntarily surrender their license, the board must vote to accept the surrender, deny the surrender because of a pending complaint or disciplinary matter, or begin disciplinary proceedings against the licensee for conduct engaged in before the submission of the written notice of intent to voluntarily surrender.

1. Division staff must present the matter of the licensee's voluntary license surrender to the board as soon as practicable.

2. If the board accepts the voluntary surrender, the license is terminated and division staff must:

    a. Give written notice to the licensee of the board's action; and

    b. Change the licensee's status to "license in good standing voluntarily surrendered."

3. The board must not accept a voluntary license surrender if the licensee is the subject of pending complaints or disciplinary action or the licensee has engaged in conduct appropriate for discipline but not yet the subject of a complaint, investigation, or disciplinary action.

4. If the board does not vote to accept the voluntary surrender because of a pending complaint, compliance audit, or disciplinary matter this section does not preclude the board from resolving all pending matters by a consent agreement with terms that include the license surrender.

5. If after the board accepts a voluntary license surrender, the division receives a complaint or other information alleging that the former licensee engaged in conduct before the license surrender that would have warranted discipline, and the division substantiates an allegation, division staff must:

   a. Advise the board of the post-surrender allegations division staff has substantiated;

   b. If the board approves, update the licensee's status to reflect the existence of unresolved, post-surrender allegations. These allegations must be addressed if the former licensee applies to the division for any license issued under this chapter.

Section 7-201.17: License Transfer to Inactive Status

A. Inactive Status.

1. If a license is placed on inactive status by the board, the license is not effective during the period of inactive status.

2. A licensee with a license on inactive status must not:

   a. Engage in paid or unpaid activities of the profession or occupation for which licensing is required.

   b. Represent themselves as holding a license.

3. Other restrictions or conditions on inactive status, including how long a licensee may remain on inactive status, are as specified in the article governing the profession or occupation.

4. A license on inactive status must be reactivated to be in effect.

B. Process for Transfer to Inactive Status.

1. A licensee in good standing may make a written request for inactive status on a form approved by the division.

2. After reviewing the request, division staff recommends whether the board should grant or deny the request.

3. If the board grants the licensee's request, the board will order the license transferred to

inactive status. Division staff must update the licensee's status to "inactive" and give written notice to the licensee that the license is on inactive status.

4. There is no right to a hearing from the board's denial of a request for transfer to inactive status.

C. Reactivation Process.

1. Application. To reactivate an inactive license:

   a. The former licensee seeking reactivation must apply for reactivation by the board.

   b. The applicant for reactivation must:

      (1) Submit an application on a form required by the division.
      (2) Pay a reactivation fee under the article governing the profession or occupation.
      (3) Submit proof of compliance with the continuing education requirements.
      (4) Submit proof to demonstrate the applicant for reactivation:
         (a) Possesses the skills necessary to practice in the profession or occupation;
         (b) Remains in compliance with this chapter; and
         (c) Complies with other licensing requirements.
      (5) Identify all jurisdictions where the licensee engaged in the profession or occupation while the license issued under this chapter was inactive.
      (6) If the applicant for license reactivation engaged in the profession or occupation in another jurisdiction while their license issued under this chapter was inactive, submit the following:
         (a) Proof of the applicant's authorization to practice in the profession or occupation in that other jurisdiction;
         (b) An affidavit affirming the applicant has not been disciplined in that other jurisdiction; and
         (c) An affidavit affirming the applicant is not the subject of a complaint, investigation, or pending discipline that other jurisdiction.
      (7) Pass the examination for licensing in the profession or occupation if the applicant has been inactive for more than 5 years.
      (8) Satisfy all requirements of the article governing the profession or occupation.

2. Review. Division staff must review an application for reactivation for satisfaction of the requirements of this section and the article governing the profession or occupation.

   a. If incomplete, division staff will follow the process used for incomplete licensing applications under ACJA § 7-201.10(D)(2) and (3).

   b. When complete, division staff will make a recommendation to the board about whether to grant or deny the application for reactivation or whether the board should require the licensee to comply with additional conditions.

3. Approval. The board determines whether to approve or deny a request for reactivation.

D. Reactivation. If the applicant meets the requirements of this subsection to the satisfaction of the board, the board must return the license to active status. Division staff must change the licensee's status from "inactive" to "active" and give written notice to the licensee of the board's decision within 5 days.

Section 7-201.18: License Reinstatement After Suspension or Revocation.

A. Reinstatement Application. The board may approve the reinstatement of a license that was suspended or revoked under this chapter if the former licensee demonstrates rehabilitation, compliance with all disciplinary orders and rules, and that that the former licensee meets the minimum competencies of the profession or occupation and the requirements for initial licensing.

1. Eligibility. A license suspended or revoked by a final order is eligible for reinstatement if:

   a. For a suspended license, when the licensee has satisfied all requirements of the suspension order.

   b. For a revoked license, when it has been at least 1 year since the date of the final revocation order and the former licensee has satisfied all requirements of the revocation order.

2. A person seeking reinstatement must:

   a. Submit a written application for reinstatement on a form required by the division, which includes the information required under (3)(a)–(l);

   b. Pay the fee required under the article governing the profession or occupation; and

   c. Satisfy the requirements for reinstatement under the article governing the profession or occupation.

3. The application for reinstatement is not complete without:

   a. A copy of the final order suspending or revoking applicant's license;

   b. A detailed description of the applicant's business or employment during the ~~period~~ time between the final order suspending or revoking applicant's license and the reinstatement application;

   c. A detailed list of the applicant's sources and amounts of earnings and other income, and sources and amounts of funds or resources made available to applicant for personal use, between the final order suspending or revoking applicant's license and the reinstatement application;

d. A detailed list of every civil or criminal case, in which applicant was a plaintiff or defendant, filed or initiated since applicant's last application for initial licensing or renewal, whichever is more recent;

e. For a civil or criminal case listed in (d), copies of all key documents, including charging documents or complaints; responsive pleadings; minute entries or orders disposing of claims or issues; and final judgments or orders.

f. A detailed list of all civil or criminal final judgments or orders since the applicant's last application for initial licensing or renewal, whichever is more recent;

g. A list of all applicant residence and business addresses used since the applicant's last application for initial licensing or renewal, whichever is more recent;

h. A concise statement of how the applicant for reinstatement has maintained the minimum competencies and knowledge required of a licensee since the final order suspending or revoking applicant's license;

i. A statement of the facts and circumstances supporting reinstatement of applicant's license to practice the profession or occupation after suspension or revocation;

j. A statement of the facts and circumstances demonstrating applicant's rehabilitation and acceptance of responsibility since the final order suspending or revoking applicant's license;

k. Information demonstrating that applicant has satisfied all terms and conditions of the order suspending or revoking applicant's license; and

l. A statement of the facts and circumstances demonstrating that applicant will pose no threat to the public if their license is reinstated.

B. Review Process.

1. Division review. Division staff must review an application for reinstatement, including the information provided under (A)(3)(a)–(l), for clarity and completeness.

   a. If division staff is unable to conclude that the application is complete, division staff must:

      (1) Request additional information to clarify the application or to supply information that is missing or incomplete.
      (2) Follow the process used for incomplete licensing applications under ACJA § 7-201.10(D)(2) and (3).

b. When an application for reinstatement is complete, division staff must make a recommendation to the board about granting or denying the application for reinstatement or requiring the applicant to submit additional information or comply with additional conditions.

2. Board review. The board may require the applicant to:

   a. Submit additional information demonstrating that applicant meets the minimum competencies of the profession or occupation.

   b. Sit for and pass the licensing examination for the profession or occupation.

C. Reinstatement.

1. Burden of proof. The applicant has the burden of demonstrating, to the board's satisfaction, their rehabilitation, compliance with all disciplinary orders and rules, and that they meet the minimum competencies of the profession or occupation.

2. Board decision.

   a. If the board is satisfied that applicant has satisfied their burden, the board must grant reinstatement.

   b. If the board denies reinstatement, it must issue a written decision and order, and give notice to the applicant, under ACJA § 7-201.13(D).

   c. An applicant denied reinstatement may appeal the decision by requesting a hearing under ACJA § 7-201.13(E).

Section 7-201.19: License Renewal

A. Renewal Application. A licensee must apply for license renewal:

1. On a form specified by the division; and

2. Filed with the division by the deadline set by the board to allow time to process the renewal application before the expiration date, unless the applicant is granted a one-time, good cause extension under ACJA § 7-201.07(B).

B. Effect of Filing Timely Renewal Application. By timely filing a complete renewal application, the licensee's existing license does not expire during the renewal process.

1. When a renewal application is granted, the effective date of the renewed license begins the day after the previous license expired, even if that date has already passed.

2. When a renewal application is denied, the existing license does not expire until midnight on the last day to request a hearing on the denial or, if a hearing is requested, until the board's final written decision and order.

C. Failure to Timely File Renewal Application.

1. Effect of not timely filing renewal application. If no renewal application is filed with the division by the deadline or a deadline extended for good cause, the license expires on its expiration date.

2. Effect of filing for renewal after license expiration. A renewal application filed after the expiration date must be treated as an initial application satisfying the requirements of ACJA § 7-201.10(B)(1), unless, within the 90 days after their license expiration, the licensee requests to file an untimely renewal application.

3. Request to file untimely renewal application. Within 90 days after their license expiration date, the licensee may request board permission to file an untimely renewal application by submitting to the division:

   a. A request for permission to file an untimely renewal application and statement of good cause explaining the circumstances of the failure to file a timely renewal application.

   b. Whenever possible, factual information in the statement of good cause explaining the circumstances of the failure to file a timely renewal application should be accompanied by supporting documentation;

   c. A statement by the licensee about whether the licensee has been engaged in the profession or occupation following license expiration and, if they have been engaged, the licensee must include the facts and circumstances explaining why they have been engaged in the profession or occupation under an expired license.

   d. A complete renewal application on the form specified by the division; and

   e. The late fee specified in the article governing the profession or occupation.

4. Incomplete request defined. A request for permission to file an untimely renewal application not meeting the requirements in (C)(3) is incomplete.

5. Division staff review. Division staff must review a request to file an untimely renewal application for compliance with the requirements in (C)(3).

   a. If division staff determines the request is incomplete:

      (1) The provisions of ACJA § 7-201.10(D)(2) and (3) do not apply to a request to file an untimely renewal application, including the renewal application itself. Division staff will not give licensee a notice of deficiency, ask for additional information, or

give licensee an opportunity to amend to complete the request.

(2) Division staff will transmit the request to the division director with an explanation of why the request is incomplete.

(3) If the division director agrees that the request is incomplete, the division director must deny the request and the license remains expired.

(4) There is no right to a hearing on the division director's decision that the request is incomplete and denying the request.

b. If division staff determines the request is complete:

(1) Division staff will transmit the request to the division director with a recommendation to grant the request.

(2) If the division director agrees that the request is complete:

(a) The renewal application, as submitted with the request to file an untimely renewal application, is filed as of the date the request was submitted.

(b) The licensee's existing license is returned to active status and will not expire during the renewal process.

(c) During the renewal process, division staff must investigate whether a licensee's conduct in engaging in the profession or occupation under an expired license should result in denial of the license renewal application.

D. Processing Renewal Application.

1. Preliminary review. Division staff must review a timely-filed renewal application to determine if it is complete. If incomplete, division staff will follow the process used for incomplete licensing applications under ACJA § 7-201.10(D)(2) and (3).

2. Additional information. Even if a renewal application, whether timely or untimely filed, is complete, division staff may obtain additional information or explanations necessary for the division to make a licensing recommendation, including:

a. Information reasonably necessary to determine if the renewal applicant continues to meet the licensing qualifications of this article and the article governing the profession or occupation;

b. A background check;

c. Additional or updated criminal history; and

d. Information related to the grounds for board denial of the application under ACJA § 7-201.12

E. Division Report and Recommendation.

1. Contents. The division staff must prepare a report and recommendation for the board's consideration and decision. The report and recommendation must include:

a. A written recommendation on the applicant's qualifications and eligibility for licensing;

b. Information about deficiencies in a timely-filed application, the written notice of deficiency issued by division staff, and the applicant's response correcting or explaining the deficiencies;

c. Information about pending complaints or disciplinary matters against the applicant for renewal;

d. Information about unresolved factual or legal issues with the applicant or application;

e. Information about applicant's conduct that would be grounds for denial of an initial application;

f. Information about whether the applicant will attend the board meeting and be available to answer questions; and

g. If necessary, division staff's request for guidance from the board.

F. Decision on Renewal Application.

1. Board agenda. After division staff issues the report and recommendation on a renewal application, the renewal application may be placed on the board's agenda.

2. Board action. After reviewing the division staff report and recommendation about an application, the board may consider the application at a board meeting when the application is on the agenda for consideration and possible action. The board may take various actions, including:

   a. Asking the applicant questions relevant to the licensing decision, including about the renewal application, the applicant's continued qualifications, the division's review, information provided or omitted by the applicant, the practice of the profession or occupation after license expiration if the application was allowed to be untimely filed, and areas of concern;

   b. Requesting additional information from the applicant;

   c. Requesting that division staff conduct additional investigation;

   d. Responding to division staff's request for guidance, if any;

   e. Postponing the licensing decision to a future, regular board meeting; and

   f. Granting or denying the licensing application.

3. Standard. The standards for granting or denying license renewal are the standards for granting or denying an initial license as stated in ACJA §§ 7-201.09 and 7-201.12.

4. Decision granting renewal.

   a. When the board votes to grant license renewal, division staff must give the licensee written notice of the decision.

   b. After a license is renewed, division staff must issue a document, badge, or card stating the licensee's name, license number, issue date, and expiration date.

5. Decision denying renewal. If the board votes to deny license renewal:

   a. It must issue a written decision and order, and give notice to the applicant, as provided in ACJA § 7-201.13(D)

   b. The written decision and order must include a statement that the applicant may appeal the decision by requesting a hearing under ACJA § 7-201.13(E).

Section 7-201.20: Licensee Conduct

A. Code of Conduct. A licensee must abide by this section and the code or standards of conduct in the article governing the profession or occupation.

B. Identification. Upon request, a licensee must provide proof of licensing.

C. Assumed Business Name. A licensee must not transact business in this state under a name other than the licensee's legal name on file with the division.

D. Response. A licensee must timely respond to a request for information or documents under this chapter and to a subpoena or order issued by a court or judicial officer.

E. Candor. A licensee has a duty of candor to a tribunal and the division. In addition:

1. A licensee must not knowingly:

   a. Make a false statement or omission of material fact or law to a tribunal or the division; or

   b. Fail to disclose a material fact to a tribunal or the division unless the disclosure is prohibited by law and the licensee states in response to the request that the disclosure is not made for that reason.

2. A licensee convicted of a misdemeanor or felony must notify the division within 10

calendar days after entry of the judgment of conviction.

F. **Change of Name or Address.** A licensee must give notice to the division of a change in name or business, directory, mailing, or home address; telephone number; or email address within 30 days of the change, except as provided in the article governing the profession or occupation. The licensee must give this notice to the division in writing on the form and by the method specified by the division.

G. **Use of Designation or Abbreviation.** A person who is licensed to practice in a specific profession or occupation under this chapter is authorized to use the applicable designation "Arizona licensed" or "Arizona certified," followed by the name or recognized of the profession or occupation (for example, "Arizona licensed fiduciary"), with their title or name.

H. **Transfer Prohibited.** Licenses issued under this chapter are not transferable.

Section 7-201.21: Grounds for Discipline

A. **Licensee Violations.** A licensee may be disciplined for:

1. Failing to perform a duty imposed on a licensee by this chapter, a rule, or a statute.

2. Violating or failing to comply with a federal, state, or local law or rule governing the practice of the profession or occupation.

3. Violating or failing to comply with a code of conduct, rule of professional conduct, or professional standard applicable to the licensee's profession or occupation, including a violation of ACJA § 7-201.20, that is in effect in this or any jurisdiction where the licensee is authorized to practice a profession or occupation.

4. A knowing violation of a rule or court order, including child support orders.

5. A knowing violation of the rules of or orders issued by a state, tribal, territory, or federal court.

6. Violating or failing to comply with a duty or requirement in a disciplinary or disability investigation or proceeding that is imposed on a licensee under this chapter, a rule, or a statute in this or any jurisdiction in which the licensee is or was licensed.

7. Violating or failing to comply with a provision of this chapter, including a provision under the article governing the licensee's profession or occupation.

8. Violating or failing to comply with a corrective action plan resulting from an audit or monitoring.

9. Violating or failing to comply with the terms of a consent agreement in any jurisdiction in which the licensee is or was licensed.

10. Violating or failing to comply with a license limitation or restriction in any jurisdiction in which the licensee is or was licensed.

11. Violating or failing to comply with a term of probation in any jurisdiction in which the licensee is or was licensed.

12. Receiving professional discipline in another jurisdiction.

13. Knowingly making or filing false reports or records in the practice of the profession or occupation.

14. Exercising influence over a client or customer to the licensee's benefit, financial or otherwise, or to the benefit of anyone other than the client or customer.

15. Failing to cooperate or provide information as required or requested under this chapter.

16. Aiding or assisting another person in engaging in the unauthorized practice of a profession or occupation under this chapter without a license.

17. Conviction in any jurisdiction of a serious crime, whether misdemeanor or felony, relevant to the licensee's profession or occupation under this chapter.

18. Gross negligence in the performance of duties or the practice of the licensee's profession or occupation.

19. Incompetence in the performance of duties or the practice of the licensee's profession or occupation.

20. Evading service of process or refusing to cooperate with division staff, the disciplinary clerk, the hearing officer, or any other official performing duties under this chapter.

21. Engaging in conduct that would have been grounds for denying licensee's initial, renewal, or reinstatement application or that would be grounds for denial of a future license renewal.

22. Endangering the public.

23. Engaging in more than an isolated instance of unprofessional conduct.

B. Unprofessional Conduct. A licensee may be disciplined for unprofessional conduct, including:

1. Assisting another applicant or licensee in the use of deception, dishonesty, or fraud to secure a license or renewal under this chapter.

2. Failing to comply with an order of a court, board, or regulatory agency if the order is related to the profession or occupation.

3. Failing to retain client or customer records for a period of 3 years unless another applicable law or rule provides a different retention period.

4. Failing to exercise a duty of care to avoid actions or omissions that may harm clients or customers of licensee's services, including by using unsafe, unacceptable, or prohibited practices.

5. Failing to exercise the level of competence and diligence that a reasonable licensee in the profession or occupation must provide to clients or customers under the same or similar conditions and regardless of the level of harm or injury to the client or customer.

6. Using a false, misleading, or deceptive statement, representation, or omission in the sale or advertisement of goods or services.

7. Using a supreme-court-issued license to deceive the public about a licensee's level of skills or abilities.

8. Failing to file reports or other documents required in the practice of the profession or occupation.

9. Delegating professional or occupational responsibilities or duties to another person the licensee knows or should know lacks the level of education, experience, skills, or credentials required to perform the duties of the profession or occupation except as authorized under this chapter, including when the licensee is supervising individuals working to satisfy an experiential licensing requirement.

10. Engaging in the licensee's profession or occupation when medically or psychologically unfit.

11. Engaging in habitual substance abuse;

12. Violating a confidentiality requirement under this chapter, a rule, or a statute.

13. Being the subject of a professional disciplinary investigation or proceeding in another jurisdiction.

14. Committing violations under (A).

Section 7-201.22: Complaints

A. Filing a Complaint.

1. Time limit. A complaint must be brought within 3 years of the licensee's alleged conduct unless the time is extended by the division director for good cause.

2. Duty to file complaint. Judicial officers, judicial employees, and licensees must, file a complaint with the division if they have reason to believe a licensee has engaged in conduct that is grounds for discipline under ACJA § 7-201.21.

3. Permissive complaint. Individuals who are not judicial officers, judicial employees, or licensees, may file a complaint with the division if they have reason to believe a licensee has engaged in conduct that is grounds for discipline under ACJA § 7-201.21.

4. Form of complaint.

   a. The complaint must:

      (1) Be in writing on a form specified by the division and signed by the complainant;
      (2) Contain sufficient detail about the facts and circumstances giving the complainant reason to believe a licensee has engaged in conduct that, if true, is grounds for discipline under ACJA § 7-201.21 and sufficient for investigation; and
      (3) Contain the complainant's printed name, daytime and evening telephone number, email address, mailing address, and physical home or business address of the complainant.

   b. Anonymous complaints will not be accepted.

5. Pre-Licensing Complaints. Complaints alleging conduct that would be grounds for discipline of a licensee under ACJA § 7-201.21 may be made against individuals who are authorized or required to work in a profession or occupation before licensing. Complaints filed against these individuals alleging conduct committed pre-licensing must be investigated as part of the licensing process and not under this section.

B. Division-Initiated Complaints.

1. The division director may find it necessary for protection of the public to authorize filing a complaint in the name of the division, including when:

   a. The division director has reason to believe a licensee has engaged in conduct that is grounds for discipline under ACJA § 7-201.21 that is sufficient to warrant further investigation and:

      (1) It is within the supreme court's jurisdiction;
      (2) There is sufficient information for an investigation; and

(3) The conduct engaged in, if true, would warrant discipline.

b. A complainant establishes good cause for requesting that they not be identified as the complainant.

2. A division-initiated complaint is subject to the provisions of this article applicable to complaints filed by third parties, except as stated in this section.

C. Confidentiality.

1. Confidential complaint and investigative records. Complaint and investigative records are confidential until there has been a probable cause finding, except as provided in this section or by law. Confidential complaint and investigative information or records includes:

a. Information and records received by the division in connection with a report of unprofessional conduct or violations, regardless of the existence of a complaint.

b. Information and records of the division:

(1) Received as part of a complaint;
(2) Received or generated by the division during the investigation of a complaint; and
(3) Received or generated by the division during an investigation to determine whether to open a division-initiated complaint.

2. Disclosure of complaint and investigative records.

a. Confidential complaint and investigative records may be disclosed during an investigation and before a finding of probable cause as follows, unless the disclosure is prohibited by law or court rule:

(1) To AOC staff, the attorney general, county attorney, law enforcement, or other regulatory or disciplinary officials; or
(2) If, in response to a request for the records, the director determines disclosure is in the public interest and there is no countervailing interest against disclosure by law or court rule.

b. After a finding of probable cause, the complaint and investigative records are no longer confidential under this section and may be disclosed unless:

(1) A law or court rule prohibits disclosure; or
(2) There is a finding of probable cause on fewer than all allegations and the probable cause evaluator directs further investigation of the remaining allegations.

3. Dismissed complaints.

a. When complaints are dismissed by the division director before a finding of probable cause, the complaint and investigative records remain confidential.

b. When complaints are dismissed by the board after a finding of probable cause, the complaint and investigative records are no longer confidential under this section and may be disclosed unless a law or court rule prohibits disclosure.

Section 7-201.23: Complainants

A. Complainant Status.

1. Non-party status. A complainant is not a party to a disciplinary, reinstatement, or reapplication matter.

2. No standing. A complainant has no right, standing, or interest other than as a member of the public unless specifically authorized in this chapter.

B. Submission to Jurisdiction. By filing a complaint, a complainant submits to the jurisdiction of the division and the hearing officer for all purposes relating to resulting proceedings.

C. Immunity. Communications to the division, division director, division staff, or hearing officer, including testimony provided in a disciplinary hearing or statements in an affidavit or declaration are absolutely privileged conduct, and no civil action based on the making of these communications may be brought against any complainant or witness.

D. Communications.

1. A complainant must inform the division of a change of mailing address, telephone number, email address, and physical home or business address during the investigation and disciplinary proceedings.

2. The division will send the following to complainant by email or by depositing a copy in the U.S. mail addressed to the complainant at the address last provided to the division:

   a. Notice of the division's receipt of the complaint;

   b. A copy of the division's letter notifying the licensee of the complaint and licensee's response deadline;

   c. A copy of the licensee's response to the complaint;

   d. Notice of a board meeting at which the complaint will be on the agenda;

   e. A copy of non-confidential documents submitted to the board in support of an agenda item concerning the complaint;

f. Notice of action by the board concerning the complaint;

g. Notice of a finding of probable cause on the complaint's allegations;

h. Notice of the licensee's request for hearing;

i. Notice of the disciplinary hearing; and

j. Notice of the final disposition of each allegation, including dismissal of all or part of the complaint and a final decision and order.

3. Before board consideration of an agenda item related to the complaint, the division will advise the board of the division's compliance with the notice requirements of this section.

4. The division's failure to comply with the notice requirements of this section is not a basis for a legal or procedural challenge to board action.

5. A complainant may file a request for board review of the division director's dismissal of the complaint or its allegations no later than 10 days of the date of the division's notice to complainant of the dismissal.

E. Non-Abatement.

1. Investigation continues. The division's authority to investigate and process a filed complaint is unchanged by later events, including if:

   a. The complainant is unwilling to proceed or withdraws all or part of the complaint;

   b. The complainant does not cooperate with the division's investigation;

   c. There is a settlement or compromise between the complainant and the licensee; or

   d. Restitution has been paid by the licensee.

2. Division-initiated complaint. If a complainant is unwilling to proceed or withdraws all or part of the complaint, the investigation will proceed as a division-initiated complaint as if the complaint originated as a division-initiated complaint.

Section 7-201.24: Administrative Review; Dismissal

A. Licensee Response. Within 30 days after a complainant files or the division initiates a complaint against a licensee, division staff must give the licensee written notice of the complaint and an opportunity to respond.

1. Written notice to the licensee must:

a. Include a copy of the complaint and records filed with the complaint.

b. Inform the licensee of the right to file a written response to the complaint within 30 days from the date of the notice. The licensee's response deadline may be extended by the division director for good cause under ACJA § 7-201.07(B)

2. A licensee must have the opportunity to respond to a complaint before discipline is initiated or imposed, except when the board will consider emergency license suspension under ACJA § 7-201.29.

3. The board never loses its power to impose discipline because a licensee fails to timely respond to a complaint.

B. Initial Screening.

1. Complaint defects. When a complaint is filed, division staff must review the complaint for compliance with ACJA § 7-201.22(A)(4) and note defects, including if:

   a. The complaint is against a person or alleges conduct or outside the supreme court's jurisdiction;

   b. The complaint does not identify the licensee;

   c. The complaint does not contain sufficient detail about the facts and circumstances for investigation;

   d. The complaint does not provide sufficient detail about the facts and circumstances giving the complainant reason to believe a licensee has engaged in conduct that, if true, is grounds for discipline under ACJA § 7-201.21;

   e. The alleged conduct, if true, is not grounds for discipline under ACJA § 7-201.21;

   f. The complaint does not contain the complainant's printed name and signature; or

   g. A complaint against the licensee for the same conduct has been investigated and dismissed, and the new complaint contains no new information.

2. Nature of defects. Defects resulting from the complaint's failure to comply with ACJA § 7-201.22(A)(4) are listed in (A)(1)(a)-(f).

3. Recommendation. If division staff identifies a defect in compliance with ACJA § 7-201.22(A)(4) or other reason a complaint should not be investigated, division staff must provide a written recommendation to the division director stating the reasons for and against the complaint's possible administrative dismissal.

C. Division Director Review.

1. If the division director receives a division staff recommendation for possible dismissal:

    a. The division director must dismiss the complaint for defects listed in (A)(1)(a) and (e).

    b. If the recommendation for dismissal is based on defects listed in (A)(1)(b)-(d) and (f), the division director may:

        (1) Direct division staff to give the complainant a deadline and instructions for supplying the missing or additional information needed to cure the defects; or
        (2) Dismiss the complaint.

2. If the division director gave the complainant the opportunity to supply the missing or additional information to cure the complaint's defects and the complainant fails to do so by the deadline, including a deadline extended for good cause at complainant's request, then the director must dismiss the complaint.

3. If the division director dismissed the complaint because it was against a person, or alleged conduct, outside the supreme court's jurisdiction, the director should, if possible, refer the complaint to an appropriate federal, state, or local agency.

D. Notice of Dismissal.

1. Before each regular board meeting, the division must notify the board of the complaints dismissed by the division director since the board's last meeting.

2. Within 10 days after the division director's dismissal of a complaint, the division must provide written notice of the dismissal to the complainant.

E. Board Review of Administrative Dismissal.

1. Request for review. No later than 10 days after the date of the written notice to the complainant of the division director's dismissal, the complainant may file a request for the board to review the division director's decision. The request must be filed on a form specified by the division.

2. Documentation. Division staff must provide the board members with a copy of the complaint, records submitted with the complaint, the division staff recommendation to the division director, and the complainant's request for review. The copies provided to the board for its review are confidential under ACJA § 7-201.22(C).

3. Consideration. The board considers administratively dismissed complaints:

    a. Collectively, if on the consent agenda.

b. Individually, if:

(1) Removed from the consent agenda by vote of the board; or
(2) Board review is requested by the complainant.

4. Confidentiality. To preserve confidentiality under ACJA § 7-201.22(C), the dismissed complaints are listed and identified only by complaint number:

a. On the board's consent agenda of dismissed complaints; or

b. As a separate agenda item if the complainant requested board review.

5. Consent agenda. The board's regular meeting agenda must include a consent agenda listing the complaint numbers dismissed by the division director between the last board meeting and the preparation of the board agenda.

a. On the successful motion of a board member, a dismissed complaint may be removed from the consent agenda for separate consideration by the board.

b. The division director's dismissal of the complaints remaining on the consent agenda is affirmed or rejected by a single vote to approve or disapprove the consent agenda.

6. Individual consideration. For dismissed complaints that are removed from the consent agenda or are already separate agenda items because the complainant requested board review the board must consider them individually.

a. The board's individual consideration of a complaint dismissed by the director must occur in executive session if it would reveal the contents of the complaint or investigative materials that must be kept confidential under ACJA § 7-201.22(C).

b. After consideration of a dismissed complaint, the board may take action, including:

(1) Voting in public session to:
(a) Affirm the division director's dismissal; or
(b) Reverse the division director's dismissal and send the complaint for investigation.
(2) Giving direction to division staff about the nature or scope of the investigation requested, but the board must do so in executive session to preserve the confidentiality required under ACJA § 7-201.22(C).

Section 7-201.25: Complaint Investigations

A. Investigation. Complaints that are not administratively dismissed after initial screening are investigated to determine the validity of the complaint's allegations.

B. Investigative Subpoenas. The division director may issue an investigative subpoena to a person to compel the production of documents, information, tangible things, or sworn testimony as necessary to investigate a complaint.

1. The division may obtain evidence through the voluntary cooperation of witnesses and licensees but is not required to establish a lack of cooperation before issuing a subpoena to compel production.

2. Subpoenas under this section must be served by an individual who is at least 18 years old by delivering a copy to the named person in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure.

C. Discovery of Additional Violations.

1. If evidence of possible violations or unprofessional conduct other than those specified in a complaint are discovered during investigation of the complaint, the other violations or misconduct may be investigated and resolved as part of the existing complaint as if they had been included in the complaint.

2. The investigative summary must disclose that these other possible violations or misconduct were discovered by division staff during their complaint investigation.

Section 7-201.26: Compliance Audits

A. Authority. A compliance audit of a licensee occurs:

1. As required by law.

2. At the division director's instruction, according to procedures approved by the division director, for administrative purposes, including:

   a. To determine if one or more randomly selected licensees are in compliance with applicable requirements of their profession or occupation; and

   b. To survey and evaluate the practices of one or more groups of licensees for purposes of improving the supreme court's regulation of the profession or occupation.

3. As approved by the director as part of an investigation.

4. When ordered by the board in final resolution of a complaint or a final order in a disciplinary proceeding.

B. Requirements.

1. Procedures. The schedule, guidelines, and procedures for conducting compliance audits are

as approved by the division director.

2. Confidentiality.

   a. Division staff's compliance audit working papers are confidential records closed to the public. They may be disclosed to AOC staff performing official duties, the attorney general, county attorney, public regulatory entities, or law enforcement agencies.

   b. A final audit report issued to the licensee is not confidential and is open to public inspection.

3. Subpoenas. The division director may issue a subpoena to a person to compel the production of records, to compel the production of documents, information, tangible things, or sworn testimony as necessary for purposes of the audit. The provisions for investigative subpoenas in ACJA § 7-201.25(B)(1) and (2) apply.

4. Corrective action plan. A final audit report may include a corrective action plan for the licensee. The board may order the licensee to comply with a corrective action plan.

5. Complaint. The division director may authorize the filing of a division-initiated complaint under ACJA § 701.22(B), or make a referral to an appropriate federal, state, or local agency, based on information obtained during a compliance audit.

C. **Violations or Noncompliance.** If a licensee fails to comply with a subpoena issued under this section, or with an order issued by the board as part of a corrective action plan, the division may apply to the presiding disciplinary judge or hearing officer for an order directing the licensee to comply. The failure to obey a resulting compliance order is punishable as contempt of court.

Section 7-201.27. Probable Cause

A. **Investigation Summary.**

1. After investigation. Upon completion of an investigation, division staff must prepare a written investigation summary for review by the probable cause evaluator, except as provided in this chapter. The investigation summary must include:

   a. An analysis of the violations and unprofessional conduct alleged or discovered during the investigation and the conduct required to establish each;

   b. The facts verified or established during the investigation and whether those facts support the existence of the alleged or discovered violations or unprofessional conduct; and

   c. A written recommendation from the division director as to whether the probable cause evaluator should find that the investigation summary has established reasonable grounds for belief that the licensee has committed violations or acts of unprofessional conduct warranting informal or formal discipline.

2. Emergency. When the division has information during an investigation that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare, division staff must prepare a written investigation summary for review by the probable cause evaluator while the investigation is ongoing.

B. Probable Cause Review.

1. The deputy director, as probable cause evaluator, must review the written investigation summary and make written findings that:

   a. Additional investigation is required before a probable cause finding is possible, including information about the additional investigation needed;

   b. Probable cause does not exist because there is no reasonable grounds for belief that the licensee has committed acts of unprofessional conduct or violations that, if true, would warrant informal or formal discipline; or

   c. Probable cause exists because there is reasonable grounds for belief that the licensee has committed acts of unprofessional conduct or violations that, if true, would warrant informal or formal discipline.

2. The deputy director must make a separate written finding for each allegation of the complaint presented in the investigation summary.

3. If the probable cause evaluator requires additional investigation of an allegation, the additional investigation must be given priority and resolved as soon as possible to facilitate transmission of all complaint allegations to the board together, unless the deputy director or division director determine that it is in the public interest to transmit specific allegations to the board ahead of those requiring additional investigation.

C. Board Determination.

1. Transmission to the board. The division must transmit probable cause findings to the board for its review, including:

   a. The division's investigation summary;

   b. The deputy director's written findings of whether probable cause exists; and

   c. The division director's written recommendation on the appropriate disposition of the complaint, including applicable sanctions.

2. Meeting schedule. A complaint for which there is a probable cause finding must be placed

on the agenda of the next possible regular board meeting for presentation to the board and the board's consideration, discussion, and possible action.

3. Board action. The board may take one or more of the following actions after considering the complaint, which may include a combination of informal and formal discipline:

   a. Determine the licensee did not commit alleged acts of unprofessional conduct or violations and dismiss all or part of the complaint, with or without prejudice;

   b. Determine that licensee's conduct not rising to the level of acts of unprofessional conduct or violations warrants an advisory letter to the licensee about the need to modify or eliminate practices or activities to avoid future complaints and disciplinary action;

   c. Determine the licensee committed acts of unprofessional conduct or violations that do not warrant discipline but that licensee should receive a confidential advisory letter addressing concerns about specific licensee conduct to be modified or eliminated;

   d. Determine the licensee committed acts of unprofessional conduct or violations that may be appropriate for resolution by consent agreement or other negotiated settlement before beginning disciplinary proceedings;

   e. Determine the licensee committed acts of unprofessional conduct or violations appropriate for informal discipline;

   f. Determine the licensee committed acts of unprofessional conduct or violations appropriate for formal discipline;

   g. Determine the licensee's conduct poses an imminent risk to public health, safety, or welfare warranting emergency suspension pending resolution of the investigation;

   h. Request additional investigation of one or more allegations and, to the extent practicable, specify the issues, areas, or facts requiring additional investigation; and

   i. Table action on the complaint and request the licensee to appear at the next regular board meeting to answer the board's questions under oath or affirmation administered by the board chair.

4. Procedural decisions. The board may decide to consolidate or sever disciplinary matters against a licensee.

Section 7-201.28: Licensee Appearance; Board Questions

A. Licensee Request to Appear.

1. Notice to licensee. When the division transmits probable cause findings to the board, it must transmit written notice to the licensee of the complaint allegations for which there was a finding of probable cause, including:

    a. The division's investigation summary of those allegations;

    b. The deputy director's finding of probable cause as to those allegations; and

    c. The division director's disposition recommendation as to those allegations.

2. Request to appear. The applicant may request an opportunity to address the board in response to a finding of probable cause and the division director's disposition recommendation by making a written request on a form specified by the division within 5 days after the date of written notice to the licensee.

    a. By making a request to address the board, the licensee also agrees to respond to board questions under oath or affirmation at the board meeting.

    b. The licensee's failure to make a request to address the board does not preclude the board from exercising its discretion to request the licensee to appear to respond to questions under oath or affirmation.

B. Board Request for Licensee to Appear.

1. Board questions. In considering the appropriate action to take on a complaint, the board may table action on the complaint and request the licensee to appear at the next regular board meeting to answer the board's questions under oath or affirmation administered by the board chair.

    a. The division must provide written notice to the licensee of the date and time of the requested appearance.

    b. The licensee must be advised that they may appear with counsel, but the board's questions must be answered by the licensee and not by counsel.

    c. If the licensee declines the board's request to appear or fails to appear to answer questions, the licensee does not forfeit the right to request a hearing after being served with a formal statement of charges.

2. Following its questioning of the licensee or the licensee's failure to appear or failure to answer questions, the board may take one or more actions on the complaint, including those listed in ACJA § 7-201.28(C)(3).

Section 7-201.29: Emergency License Suspension

A. Requirements.

1. Probable cause.

   a. During an investigation, or when formal disciplinary proceedings are pending, if the division has information that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare:

      (1) Division staff must prepare an investigation summary, even if the full investigation is ongoing, detailing the information supporting the need for emergency suspension and transmit the investigation summary to the deputy director.
      (2) The deputy director must review the investigation summary and determine if there is probable cause that the licensee's conduct is an imminent risk to the public health, safety, or welfare warranting emergency suspension.
      (3) If the deputy director finds probable cause and the division director recommends emergency suspension as an appropriate disposition, the division director must notify the board chair of the need to place the matter on the board's agenda.

   b. If the board's next regular board meeting is not sufficiently soon to consider the issue of licensee's conduct and whether there is an imminent risk to the public health, safety, or welfare, the board chair must call an emergency meeting for the board to consider the recommended emergency suspension.

2. Notice. Before the board issues an emergency suspension order under this section, the division, if practicable, must give notice and an opportunity to be heard to the licensee that is the intended subject of the emergency order.

   a. Using the contact information the licensee last provided to the division, the notice may be oral and may be by telephone, facsimile, email, or a combination of these methods in addition to written notice under ACJA § 7-201.08. The written notice must include:

      (1) The full or incomplete investigation summary describing the facts supporting emergency suspension;
      (2) The deputy director's finding of probable cause as to those allegations; and
      (3) The division director's disposition recommendation.

   b. The division must document how and when notice is attempted or given, but a failure to document or failure to reach the licensee is not a basis for a legal or procedural challenge to board action.

   c. The notice must include the date and time of the board's regular or emergency meeting at which the board is expected to consider the subject of the licensee's emergency suspension.

B. Board Action.

1. Order. The board may order an emergency license suspension under this section only if it finds that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare.

    a. An order issued under this section must briefly explain the reasons for using the emergency suspension procedure.

    b. The order must state that it is:

        (1) Issued and effective when signed by the board chair; and
        (2) The order must state that it remains in effect for no more than 180 days or until the effective date of an order issued after the hearing on the emergency suspension, whichever is earlier.

2. Service of order and notice to licensee.

    a. When an order of emergency license suspension is issued, the division must immediately serve the order on the licensee in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure.

    b. The division must also give the licensee written notice, as provided in ACJA § 7-201.08, that the order of emergency suspension has been issued.

C. Hearing Date.

1. Filing order. When an order of emergency license suspension is issued, the division staff for the board issuing the order must immediately file a copy of the order with the disciplinary clerk.

2. Hearing date. Upon the filing of the order of emergency license suspension, the disciplinary clerk must issue an order setting the date and time for a hearing on the order of emergency suspension.

    a. The hearing must be held as soon as practicable on a date and time providing the licensee with sufficient notice and the opportunity to be heard.

    b. The disciplinary clerk must email the order setting the hearing date to the division staff for the board issuing the order.

    c. The division staff must serve the order on the licensee by delivering a copy to the named person in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure, and by giving written notice to the licensee under ACJA § 7-201.08.

    d. The division and licensee may file a joint request with the disciplinary clerk to schedule or reschedule the hearing for a mutually agreeable date.

D. Board Decision After Full Investigation.

1. Full investigation. After an order of emergency license suspension, the division will complete full investigation of the complaint allegations, preparation of an investigation summary, a probable cause determination, and a board determination about the appropriate discipline, if any.

2. Board decision.

   a. If, after a full investigation, the board orders formal discipline in the form of license suspension or revocation, the board's order must address the status of the emergency suspension and whether the license is revoked or suspended on a non-emergency basis.

   b. If the board does not order formal discipline, the board must terminate the emergency license suspension it imposed as an interim measure.

Section 7-201.30: Informal Discipline

A. Initiation.

1. Board action on complaint. When the board considers a complaint for which there is a probable cause finding under ACJA § 7-201.27(C), the board may determine that the licensee committed acts of unprofessional conduct or violations appropriate for informal discipline, issue an order to that effect imposing informal sanctions, and order the preparation of a letter of concern to the licensee.

2. Informal sanction; letter of concern.

   a. The board's order of informal discipline may impose the informal sanction of issuing a written letter of concern, which:

      (1) Must be prepared within 30 days of the board's order unless extended for good cause;
      (2) Is not confidential;
      (3) Does not give the licensee the right to a hearing; and
      (4) Is not subject to judicial review by special action.

   b. Informal discipline may not include a censure, restrictions on a license, probation, mandating additional training, suspension or revocation of the license, or imposition of civil penalties or costs.

   c. A letter of concern is issued and effective when signed by the board chair.

B. Notice to Licensee. A licensee must be given written notice of the letter of concern and informed of their right to respond and have their response placed in the complaint record.

C. Response. The licensee may respond to the letter of concern within 15 days after the date of the letter of concern. The licensee's response is filed with the complaint record.

Section 7-201.31: Formal Discipline

A. Initiation.

1. Board action on complaint. When the board considers a complaint for which there is a probable cause finding under ACJA § 7-201.27(C), the board may:

   a. Determine that the licensee committed acts of unprofessional conduct or violations appropriate for formal discipline;

   b. In matters in which the board determines that formal discipline is appropriate based on licensee's conviction, proof of conviction is conclusive evidence of licensee's guilt of the crime, and the sole issue for the board is the nature and extent of sanctions;

   c. Issue an order imposing formal sanctions; and

   d. Order the preparation of a formal statement of charges.

2. Formal discipline.

   a. Formal discipline is not confidential.

   b. The licensee has the right to appeal by requesting a hearing.

   c. The board's order of formal discipline may impose one or more formal sanctions, including:

      (1) Censure;
      (2) License restrictions;
      (3) Probation for a set period of time under specified conditions;
      (4) Additional training;
      (5) License suspension, including possible emergency suspension under ACJA § 7-201.29, for a set period of time with specific conditions for reinstatement;
      (6) License revocation with specific conditions for reinstatement;
      (7) Assessment of the costs of investigation and disciplinary proceedings; and
      (8) Any civil penalties associated with the investigation and disciplinary proceedings if specified in the article governing the profession or occupation.

   d. The board may:

(1) Order the division staff to prepare a formal statement of charges; or
(2) Defer the formal statement of charges and offer the licensee a proposed consent agreement for acceptance.
(a) Division staff must prepare a consent agreement on terms specified by the board within 15 days or within the time specified by the board.
(b) The division must give written notice, as provided in ACJA § 7-201.08, to the licensee of the offer of consent agreement and its terms as approved by the board.
(c) Advise the licensee that if they do not accept the consent agreement within 15 days after receiving written notice of the consent agreement, the board will file the formal statement of charges with the disciplinary clerk.

3. Formal statement of charges.

a. Division staff must prepare the formal statement of charges within 30 days of the board's order or the expiration of the consent agreement acceptance deadline unless extended for good cause.

b. Formal disciplinary proceedings are initiated when the formal statement of charges is issued.

(1) The formal statement of charges is issued when signed and dated by the board chair.
(2) The formal statement of charges must include:
(a) A short and plain statement of the allegations;
(b) Reference to the applicable statutes, rules, and provisions of this chapter;
(c) Notice of licensee's right to file an answer to the statement of charges to prevent default and the requirements for filing an answer; and
(d) Notice of licensee's right to appeal by filing a written request for hearing within 15 days after receiving service of the statement of charges.

B. Filing and Service.

1. Filing. When the formal statement of charges is issued, the division must immediately file a copy of the order with the disciplinary clerk.

2. Service on licensee.

a. The division must serve the licensee with a formal statement of charges in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure.

b. The division must also give the licensee written notice, as provided in ACJA § 7-201.08, of the formal statement of charges, but the division's failure to provide this written notice is not a basis for a legal or procedural challenge to formal discipline.

3. Proof of service. After serving the formal statement of charges, the division must file proof of service with the disciplinary clerk stating the method of service and the date when service was complete.

C. **Amended Formal Statement of Charges.** The board may vote to amend a formal statement of charges.

1. Filing and service. The amended statement of charges must be filed with the disciplinary clerk and served on the licensee in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure.

2. Proof of service. After serving an amended formal statement of charges, the division must file a proof of service with the disciplinary clerk stating the method of service and the date when service was complete.

3. Answer. The licensee has the right to file an answer to new charges in the amended statement of charges no later than 20 days after service of the amended statement of charges under Rule 5(c)(2), Arizona Rules of Civil Procedure, is complete.

4. Request for hearing.

   a. If the licensee already filed a request for hearing under ACJA § 7-201.32(B) after service of the original statement of charges, the new charges are automatically made part of the earlier request and the licensee is not required to file a separate request for hearing on the new charges.

   b. If the licensee did not request a hearing on the original statement of charges, the licensee may file a request for hearing under ACJA § 7-201.32(B) but only as to the new charges in the amended statement of charges.

D. **Answer to Formal Statement of Charges or Default.**

1. Deadline. The licensee may file an answer to the formal statement of charges with the disciplinary clerk no later than 20 days after service of the statement of charges under Rule 4.1, Arizona Rules of Civil Procedure, is complete unless the division director grants a one-time extension of the deadline for good cause under ACJA § 7-201.07(B).

2. Requirements.

   a. Content. Answers must comply with Rule 8, Arizona Rules of Civil Procedure. Any defenses not raised in the answer are waived.

   b. Default. If a licensee fails to file an answer with the disciplinary clerk to the charges by the deadline or an extended deadline:

      (1) The licensee is in default and the unanswered charges and underlying factual allegations are deemed admitted.
      (2) The board may enter a final order and findings against the licensee based on these admissions.

Section 7-201.32: Hearing

A. Right to Hearing.

1. There is a right to a hearing from the following:

   a. Denial of an initial licensing application under ACJA § 7-201.13(D)(2)(b);

   b. Denial of an application for reinstatement under ACJA § 7-201.18(C)(2)(b);

   c. Denial of a license renewal application under ACJA § 7-201.19(F)(4)(b);

   d. An order of emergency license suspension under ACJA § 7-201.29(C); and

   e. The filing of a formal statement of charges in a formal disciplinary matter under ACJA § 7-201.31(A)(2).

2. There is no right to a hearing from the following:

   a. Administrative termination of a licensing application under ACJA § 7-201.10(D)(3);

   b. Denial of a request to take a fifth examination under ACJA § 7-201.11(D)(2)(d)(2);

   c. Denial of a request to transfer to inactive status under ACJA § 7-201.29(B)(4);

   d. Decision that a request to file an untimely renewal application is incomplete and resulting denial under ACJA § 7-201.19(C)(3)(a)(4); and

   e. Order of informal discipline under ACJA § 7-201.30(A)(2)(a)(3).

B. Request for Hearing.

1. Filing. To preserve the right to a hearing, the applicant or licensee must file a written request for a hearing with the disciplinary clerk no later than 15 days after service of the formal statement of charges is complete and must simultaneously provide a copy to the division.

2. Content; request for hearing.

   a. The request for hearing must include:

      (1) The applicant's or licensee's mailing address, email address, and phone number;
      (2) The name and email address of the individual designated to receive contacts from the disciplinary clerk and the hearing officer;

(3) Citation to the ACJA section creating the right to a hearing~~.~~;
(4) A statement of the nature of the hearing;
(5) Brief identification of the factual or legal issues contested;
(6) The relief demanded;
(7) A copy of the written decision and order appealed from; and
(8) If the applicant or licensee requested and received an extension of time for filing the request for hearing from the division director, a copy of the communication from the division with the new deadline.

b. When filing the request for hearing, the appealing party must submit a notice of hearing to the disciplinary clerk, in a form specified by the hearing office, that contains a blank space for the date, time, and location of the hearing to be completed by the disciplinary clerk.

C. Notice of Hearing

1. Issuance. After receiving a timely request for hearing and submission of the notice of hearing form, the disciplinary clerk must:

   a. Insert a date, time, and location of the hearing that complies with (F)(1).

   b. Issue the notice of hearing and scheduling order.

2. Delivery. The disciplinary clerk must deliver the notice of hearing to the applicant or licensee and the division in the following manner:

   a. On the applicant or licensee by email to the individual identified in the request for hearing as designated to receive contacts from the disciplinary clerk.

   b. On the board by email to the email address managed by the division for the profession or occupation.

3. Service is complete when the email containing the notice is sent.

D. Hearing Officer.

1. Assignment. Upon receiving a timely written request for a hearing, the disciplinary clerk must assign a hearing officer as follows~~.~~:

   a. Assign the presiding disciplinary judge appointed under Rule 51; or

   b. At the request of the presiding disciplinary judge, if the presiding disciplinary judge determines that their Rule 51 duties will interfere with the timely performance of the duties of a hearing officer under this chapter, assign a hearing officer from the other judges appointed to serve at the pleasure of the supreme court under Rule 51(a).

2. Qualifications. Hearing officers appointed by the supreme court must:

    a. Be admitted to the practice of law in Arizona and:

        (1) An active member in good standing of the State Bar of Arizona for at least 7 years immediately preceding appointment; or
        (2) An active or retired judicial officer.

    b. Have knowledge of administrative law and experience in conducting administrative hearings involving professional or occupational licensing or discipline, including under this chapter.

E. Location. Hearings are conducted at the Arizona State Courts Building.

F. Hearing Date and Continuances.

1. Upon the applicant or licensee filing a request for hearing, the disciplinary clerk must issue a notice of hearing:

    a. At least 15 days before the hearing date; and

    b. For a hearing date no later than 60 days after the request for hearing was filed.

2. The hearing officer may continue the hearing for up to 30 days on the written motion of the division or the applicant or licensee for good cause or on the hearing officer's own motion.

    a. More than one continuance may be granted, but no single continuance should exceed 30 days.

    b. A continuance must not result in a hearing on the merits beginning more than 120 days after the filing of the formal statement of charges.

Section 7-201.33: Pre-Hearing Procedures

A. Motions and Other Documents.

1. The moving party must file motions and other documents with the disciplinary clerk no later than 15 days before the scheduled hearing date unless otherwise ordered by the hearing officer.

2. The party responding to a motion or other document must file their response with the disciplinary clerk no later than 10 days after the filing of the motion or other document to which it responds.

3. The moving party may file a reply with the disciplinary clerk no later than 5 days after the filing of the response.

4. The party filing a document with the disciplinary clerk must submit a copy to the hearing officer and must serve a copy on the opposing party in the manner required for the disciplinary clerk to serve a notice of hearing under ACJA § 7-201.32(D)(2).

B. Discovery.

1. Discovery. Formal discovery procedures under the Arizona Rules of Civil Procedure do not apply to hearings under this chapter, except as provided in this section.

   a. Formal discovery would unduly complicate or interfere with the hearing process under this chapter, given:

      (1) The volume of the caseload and the need for expedition and informality in the administrative hearing process; and
      (2) That the procedures of this section for sharing relevant information are sufficient to ensure the fundamental fairness of the proceedings.

   b. In extraordinary circumstances, the hearing officer may order limited discovery, to be conducted under the Arizona Rules of Civil Procedure, on petition of a party and for good cause.

   c. The following applies to a petition, under (b), to take a deposition:

      (1) A party may petition to depose witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing for use as evidence at the hearing, or a witness, for good cause.
      (2) The petition must be filed within 10 days after the individual is first identified by a party as a hearing witness.
      (3) The petition must contain:
         (a) The name and address of the witness;
         (b) The subject matter of the deposition;
         (c) The documents sought from the witness;
         (d) The time and place proposed for the deposition;
         (e) The requested length of the deposition; and
         (d) The party's justification for the deposition.
      (4) Responses opposing the petition to take a deposition, including motions to quash, must be filed within 5 days after the request for deposition is filed.
      (5) The hearing officer must enter a final, written order on the petition within 5 days after responses are filed or the response deadline expires, whichever is earlier.
      (6) If the hearing officer grants a petition to take a deposition, the hearing officer must issue a subpoena to the witness identifying:
         (a) The person to be deposed;
         (b) The scope of testimony to be taken;

(c) The documents to be produced at or before the deposition; and
(d) The time, place, and length of the deposition.

(7) The party requesting the deposition shall arrange for service of the subpoena and order with service on the witness and opposing party complete at least 5 days before deposition date unless, for good cause shown, the time is shortened by the hearing officer.

2. Mandatory information exchange. The parties must exchange the following information no later than 20 days after the date of the notice of hearing:

   a. A list of the names, addresses, email addresses, and phone numbers of individuals known to the disclosing party as having knowledge of the facts relevant to the hearing.

   b. A list describing the relevant evidence in the party's possession, custody, or control.

3. By request. A party, by written request to another party at least 30 days before an evidentiary hearing, may:

   a. Obtain the names, addresses, email addresses, and phone numbers of witnesses the other party will present at the hearing and a brief summary of their anticipated testimony.

   b. Inspect and copy the following material in the possession, custody, or control of the other party:

      (1) Written or recorded statements of parties and witnesses proposed to be called by the other party;
      (2) All records and other evidence the other party proposes to offer at the hearing;
      (3) Investigative reports made by or on behalf of the other party about the subject matter of the hearing;
      (4) Statements of expert witnesses proposed to be called by the other party;
      (5) Any exculpatory material in the possession of the division; and
      (6) Other materials for good cause.

4. Duty to supplement responses. The parties have a duty to supplement responses provided under (2) and (3) to include information acquired later.

5. Protective order. On petition, the hearing officer may issue a protective order for information or material under (2) and (3) that is exempt, privileged, or otherwise made confidential or protected from disclosure by law other than this section or that would result in annoyance, embarrassment, oppression, or undue burden or expense.

6. Order to compel. On petition, the hearing officer must issue an order compelling a party to comply with (2) and (3) unless good cause exists for the party's refusal. Failure to comply with the order may be enforced according to the Arizona Rules of Civil Procedure.

C. Subpoenas.

1. For purposes of the hearing and on application to the disciplinary clerk, the disciplinary clerk must issue subpoenas compelling the attendance of witnesses or the production of evidence at the hearing.

2. Subpoenas must be served in the same manner as provided in, and by those authorized under, Rule 45, Arizona Rules of Civil Procedure.

3. The failure to obey a subpoena issued and served under this section is punishable as contempt of court.

D. Oaths. A hearing officer may administer oaths and examine under oath an individual on a subject relevant to the hearing.

Section 7-201.34: Pre-Hearing Conference

A. Timing. The hearing officer may order and conduct a pre-hearing conference at the request of a party or on the hearing officer's own initiative.

B. Purpose. The purpose of the conference is to consider imposing limitations to promote simplicity in procedures, fairness in administration, elimination of unnecessary expense, and protection of the public while preserving the rights of the applicant or licensee. To further this purpose, the hearing officer may take the following actions:

1. Establish a hearing schedule to ensure early and continuing control so the matter is not protracted for lack of management;

2. Dispose of outstanding procedural matters;

3. Narrow the issues for adjudication;

4. Dispose of preliminary legal issues, including ruling on pre-hearing motions;

5. Obtain stipulations from the parties to the admission of evidence and undisputed facts and legal conclusions;

6. Identify witnesses and coordinate testimony; and

7. Consider other matters to aid in the efficient conduct of the hearing.

Section 7-201.35: Hearing Procedures

A. Hearing Officer.

1. The hearing officer presides over the hearing and:

    a. Decides all requests for continuance, motions, or other requests made during the hearing;

    b. Determines the order of proof and manner of presentation of evidence;

    c. Administers an oath or affirmation to witnesses;

    d. Recesses or adjourns the hearing;

    e. Prescribes and enforces general rules of conduct and decorum applicable to superior court proceedings;

    f. May allow the parties the opportunity to file proposed findings of fact and conclusions of law;

    g. Makes findings of fact and conclusions of law; and

    h. Issues a written recommendation report to the board.

2. May dispose of a matter by stipulation, agreed settlement, consent agreement, or default.

B. Appearances.

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.

2. An applicant or licensee may represent themselves or appear through counsel. Before appearing on behalf of a party, an attorney must file a notice of appearance with the disciplinary clerk providing the name, address, and telephone number of the party represented and the name, address, and telephone number of the attorney. A corporate officer or principal may represent a business entity in ~~any~~ a proceeding under this section under Rule 31.

C. Conduct of Hearing.

1. Open proceedings.

    a. Hearings are open to the public in a manner consistent with Rule 91.

    b. The hearing officer may close the hearing to the public as provided by law for closing a superior court proceeding.

c. The hearing officer may conduct all or part of a hearing by telephone, video conference, or other electronic means.

(1) A hearing may be conducted by telephone or other electronic method by which the witnesses may not be seen only if all parties consent or the hearing officer finds that it will not impair the hearing officer's determination of credibility.
(2) A hearing conducted by telephone, video conference, or other electronic means is open to the public if members of the public have an opportunity to attend the hearing at the place where the hearing officer is located or to hear or see the proceeding as it occurs.

2. Informality. The hearing officer may conduct a hearing in an informal manner and without adherence to the rules of pleading or evidence. There is no right to a jury.

3. Witnesses.

a. Witnesses must testify under oath or affirmation. The hearing officer may administer oaths and affirmations.

b. The hearing officer may question witnesses.

4. Evidence. Except as provided in this section, all relevant evidence is admissible, including reliable and relevant hearsay evidence if the circumstances tend to establish that the evidence offered is trustworthy.

a. In matters in which the board ordered discipline and sanctions based on licensee's conviction, proof of conviction is conclusive evidence of licensee's guilt of the crime, and the sole issue to be determined is the nature and extent of discipline and sanctions to be recommended by the hearing officer.

b. The hearing officer may exclude evidence in the absence of an objection, and must exclude if objection is made at the time the evidence is offered, because:

(1) The evidence is irrelevant, immaterial, or unduly repetitious;
(2) The evidence should be excluded on constitutional or statutory grounds;
(3) On the basis of an evidentiary privilege recognized in the courts of this state; or
(4) The evidence should be excluded because its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay.

c. Evidence may be received in a document if doing so will expedite the hearing without substantial prejudice to a party.

(1) Documentary evidence may be received in the form of a copy if the original is not

readily available or by incorporation by reference.

(2) On request, parties must be given an opportunity to compare the copy with the original.

d. The hearing officer may take official notice of all facts of which judicial notice may be taken and of scientific, technical, or other facts within the specialized knowledge of the division. The non-moving party may contest an officially noticed fact before the official notice is final.

D. Burden.

1. Disciplinary decisions. In matters in which formal discipline was ordered by the board:

   a. The division's evidence in support of the formal statement of disciplinary charges is presented first; and

   b. The division carries the burden of proof by a preponderance of the evidence.

2. Licensing decisions. In matters in which an applicant or licensee requests a hearing on the denial of initial licensing, reapplication, licensing renewal, or licensing reinstatement:

   a. The applicant or licensee that requested the hearing presents evidence first; and

   b. The applicant or licensee carries the burden of proof, by a preponderance of the evidence.

E. Hearing Record.

1. Contents. The hearing record contains:

   a. A recording of the proceedings;

   b. The notice of hearing;

   c. Orders issued;

   d. Motions and other documents filed with the disciplinary clerk and related rulings;

   e. Evidence admitted;

   f. Matters officially noticed;

   g. A transcript of the proceedings, if any;

   h. The hearing officer's recommendation report to the board.

2. Recording. The hearing officer must ensure that all oral proceedings are recorded.

3. Transcript.

   a. The recording of the oral proceedings will be transcribed at the request of a party to the proceedings and payment of the costs of transcription.

   b. A certified reporter must attend and transcribe the proceedings if requested by a party at least 5 days before the hearing and upon order of the hearing officer.

      (1) The requesting party must pay the cost of the transcript, including a required prepayment or monetary deposit.
      (2) This transcript is part of the court's record of the hearing.
      (3) Other parties may request and receive a copy of the transcript at their own expense.

Section 7-201.36: Hearing Officer Recommendation

A. Timing. Within 30 days of the closing of the hearing record, the hearing officer must prepare a written recommendation report and file the report with the disciplinary clerk based only on the hearing record.

B. Content.

1. The hearing officer's recommendation report must:

   a. Include findings of fact, based exclusively on the evidence and officially noticed facts in the hearing record;

   b. Conclusions of law, separately stated from the findings of fact

   c. The hearing officer's finding as to whether the party with the burden of proof carried its burden based on a preponderance of the evidence; and

   d. The hearing officer's recommendation to the board on the ultimate disposition and sanctions.

2. If the hearing officer recommends the board find the licensee committed one or more acts of unprofessional conduct or violations, the hearing officer's recommendation report must include:

   a. An analysis of the following mitigating and aggravating factors:

      (1) Mitigating factors, including:
         (a) The absence of a prior disciplinary record;
         (b) The absence of a dishonest motive;

(c) The absence of a selfish motive;
(d) Personal or emotional problems;
(e) A timely good faith effort to make restitution or to rectify consequences of unprofessional conduct or violations;
(f) Full and ~~free~~ candid disclosure to the division ~~staff~~, the board, ~~or~~ and the hearing officer;
(g) A cooperative attitude toward ~~any~~ the proceedings;
(h) Inexperience in the practice of the profession or occupation;
(i) Character ~~or~~ and reputation;
(j) Physical or mental disability;
(k) Physical or mental impairment;
(l) Delays in the complaint, investigation, or disciplinary proceedings;
(m) Interim rehabilitation;
(n) Imposition of other penalties or sanctions;
(o) Remorse; ~~or~~ and
(p) The remoteness of prior offenses.

(2) Aggravating factors, including ~~may include but are not limited to the following~~:
(a) A prior disciplinary record;
(b) A dishonest motive;
(c) A selfish motive;
(d) Multiple offenses;
(e) Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with this ~~section, the applicable section of ACJA~~ chapter, court rules, statutes, or orders of the hearing officer;
(f) Submission of false evidence, false statements, or other deceptive practices during the ~~discipline~~ disciplinary process;
(g) Refusal to acknowledge the wrongful nature of the conduct;
(h) Vulnerability of the victim;
(i) Substantial experience in the profession or occupation; or
(j) Indifference to harm caused or to making restitution.

b. The hearing officer's recommendation on the appropriate sanctions under ACJA § 7-201.31(A)(2)(c).

C. Service. Upon filing, the disciplinary clerk must serve the hearing officer's recommendation report on all parties and the board in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure.

Section 7-201.37: Rehearing

A. Grounds. A party may request a rehearing for one or more of the grounds listed in Rule 59, Arizona Rules of Civil Procedure. A party is not required to file a request for rehearing before seeking judicial review.

B. Filing Request. The requesting party must file a written request for rehearing with the disciplinary clerk no later than 15 days after the date of the hearing officer's recommendation report. The requesting party must serve a copy of the request on the hearing officer and other parties in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure.

C. **Response.** A party served with a request for rehearing may file a response with the disciplinary clerk no later than 10 days after the date the request was filed.

D. **Decision.** The hearing officer must grant or deny a request for rehearing within 10 days after the deadline for filing a response has expired.

Section 7-201.38: Board Action on Hearing Officer Recommendation

A. **Board Meeting.** After the period for filing or deciding a request for rehearing has expired, the board must meet to consider the hearing officer's recommendation report.

B. **Board Authority.** When considering the hearing officer's recommendation report, the board is not bound by the recommended findings of fact and conclusions of law provided by the hearing officer, including findings related to the credibility of witness, but:

1. In reviewing the hearing officer's findings of fact, the board should consider the hearing officer's opportunity to observe the demeanor and attitude of witnesses and give the hearing officer's findings about the credibility of witnesses greater weight;

2. The board may not consider matters outside the hearing record when reviewing the hearing officer's recommendation report; and

3. Deviations from the hearing officer's findings of fact and conclusions of law can only be made if the board has reviewed all pertinent portions of the hearing record.

C. **Decision.** The board may:

1. Adopt the hearing officer's recommendation in its entirety and issue a final order.

2. Modify or reject the hearing officer's recommendation report in whole or in part and issue a final order.

3. Remand the matter to the hearing officer for further proceedings with instructions and issue an order to the hearing officer identifying the issues remanded.

Section 7-201.39: Final Decisions and Orders

A. **Meeting and Vote.**

1. The board must consider the hearing officer's recommendation report at its next regular

meeting that is at least 30 days after the date of the hearing officer's recommendation.

2. The board must vote on the findings of fact, conclusions of law, and the ultimate decision, including sanctions. The board may vote on them separately or together.

B. Decision and Order. The board must make its final decision in writing based only on the hearing record.

1. The board's decision and order:

   a. Must include separate statements of findings of fact and conclusions of law~~,~~ adopted by the board, including the board's finding as to whether the party with the burden of proof carried its burden based on a preponderance of the evidence.

   b. If the board's adopted findings of fact and conclusions of law modifies or rejects the hearing officer's findings of fact and conclusions of law, the board's decision must:

      (1) State the reason for each modification or rejection; and
      (2) Include the evidence in the record supporting each modification or rejection.

   c. If the board chooses to reject the overall recommendation of the hearing officer, without rejecting specific findings of fact and conclusions of law, the board must state its reasons for doing so and include any supporting references to the hearing record.

   d. Must attach a copy of the hearing officer's recommendation report.

2. The board's decision and order is issued when signed by the board chair.

C. Notice of Final Decision. The division must provide notice of the board's final decision and order.

1. For an initial licensing, licensing renewal, or licensing reinstatement, within 2 days after the written decision and order issues, division staff must give the applicant or licensee written notice under ACJA § 7-201.08.

2. For a disciplinary matter, division staff must:

   a. Give the licensee written notice under ACJA § 7-201.08.

   b. Give notice to the complainant under ACJA § 7-201.23(D)(2).

   c. If the board's final decision is to suspend or revoke a license, immediately serve the written decision and order on the licensee in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure.

   d. If the board's decision and order in a disciplinary matter does not suspend or revoke a license, give the licensee written notice under ACJA § 7-201.08.

Section 7-201.40: Judicial Review

A. Special Action. A party entitled to judicial review of a final decision of the board may file an original special action in superior court no later than 35 days after the board's final order issues. The action is governed by Part II, Arizona Rules of Procedure for Special Actions.

B. No Rehearing Requirement. An applicant or licensee entitled to judicial review is not required to first file a request for rehearing.

C. Not Applicable. A board order imposing informal discipline is not subject to judicial review.