

From: Conrad, Donald
To: Conrad, Donald
Subject: bitter smith
Date: Monday, October 19, 2015 3:52:15 PM

Materials from Southwest Cable Communications Association

Minutes of fall meetings of the board for years 2010 to present

Applications for association membership made by Cox, Comcast, Suddenlink and Time

Warner

Email sent to the board representatives for Cox, Comcast, Suddenlink and Time Warner

Any and all financial documentation and correspondence related to membership dues or payment from Cox, Comcast, Suddenlink and Time Warner for years 2010-2015 including

but not limited to checks and/or auto-deduction payments from financial institutions

All filings related to lobbying with the Arizona Secretary of State made by from inception to the present

Books and records that demonstrate the share of operational costs paid by each member for year 2010 to present

Materials from Technical Solutions

Image of computer hard drives for computers used by Ms. Bitter Smith, her husband and

Technical Solutions' secretarial staff

All filings related to lobbying with the Arizona Secretary of State from inception to the

present

Any reports of lobbying activities provided by Ms. Bitter Smith to the board members of Southwest Cable Communications Association and/ or to representatives of Cox, Comcast, Suddenlink and Time Warner

Information and materials from Ms. Bitter Smith

A list of email accounts she has used from year 2010 to present

A written waiver of any attorney and client privilege that may exist between Ms. Bitter

Smith and attorney Randy Nelson or Technical Solutions and Randy Nelson regarding

communications with Ms. Bitter Smith related to her election to the ACC, her service at the ACC and voting conflicts at the ACC inclusive of advice about conflicts in voting.

All filings with the Arizona Secretary of State made by Ms. Bitter Smith

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Conrad, Donald
Subject: Bitter Smith
Date: Tuesday, October 20, 2015 10:55:54 AM

Materials from Southwest Cable Communications Association
Minutes of all meetings of the board for years 2010 to present

Applications for association membership made by Cox, Enterprises, Inc.; Cox Communications, Inc.; CoxCom, L.L.C.; Cox Communications Arizona, L.L.C.; Cox Arizona Telcom, L.L.C.; an entity identified by the trade name ???; Comcast; Suddenlink and/or Time Warner for years 2010-2015

Copies of all written or digital communications or correspondence sent to officers, employees, and/or representatives of Cox, Enterprises, Inc.; Cox Communications, Inc.; CoxCom, L.L.C.; Cox Communications Arizona, L.L.C.; Cox Arizona Telcom, L.L.C.; an entity identified by the trade name ???, Comcast; Suddenlink and/or Time Warner for years 2010-2015

Any and all financial documentation and/or correspondence related to payment of association membership dues for Cox, Enterprises, Inc.; Cox Communications, Inc.; CoxCom, L.L.C.; Cox Communications Arizona, L.L.C.; Cox Arizona Telcom, L.L.C.; an entity identified by the trade name ???; Comcast; Suddenlink and/or Time Warner for years 2010-2015 including but not limited to checks and/or documents arranging for the auto-deduction of dues from financial institutions

Any and all filings with the Arizona Secretary of State related to lobbying made by Southwest Cable Communications Association from its inception to the present

Books and records that demonstrate the share of operational costs paid by each association member for years 2010 to present

Materials from Technical Solutions

All filings with the Arizona Secretary of State related to lobbying made by Technical Solutions, its owners or any employees from its inception to the present

Any written or digital communication or correspondence from Ms. Bitter Smith or any employee of Technical Solutions with any officer, employee, and/or representative of Cox, Enterprises, Inc.; Cox Communications, Inc.; CoxCom, L.L.C.; Cox Communications Arizona, L.L.C.; Cox Arizona Telcom, L.L.C.; an entity identified by the trade name ???, Comcast; Suddenlink and/or Time Warner for years 2010-2015

Information and materials from Ms. Bitter Smith

A written waiver of any attorney and client privilege that may exist between Ms. Bitter Smith and attorney Randy Nelson or Technical Solutions and Randy Nelson regarding

communications with Ms. Bitter Smith related to her election to the ACC, her service at the ACC and voting conflicts at the ACC inclusive of advice about conflicts in voting.

All filings with the Arizona Secretary of State made by Ms. Bitter Smith

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: Brady policy
Date: Thursday, November 12, 2015 2:37:06 PM

Make the changes on the hard copy and insert this language at the bottom of the first page of the draft policy.

Please use redline to indicate what I have changed.

If the prosecutor determines that material in his/her possession could be construed as Brady material but that a legitimate argument may be made that the material is not Brady and that the material is sensitive, damaging to the career of the law enforcement officer, objectionably invasive of the privacy of a law enforcement officer, irrelevant, or for other reasons identified by the prosecutor, the prosecutor shall, with the agreement of his/her Section Chief, file a motion for in camera review of the materials.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Conrad, Donald
Subject: Brady/Giglio Protocol relating to Criminal prosecutions
Date: Wednesday, October 14, 2015 2:56:39 PM

In order to provide consistency in the manner of compliance with our duties imposed pursuant to Brady/Giglio (Brady) this protocol has been drafted. It replaces the Criminal Division's previous protocol found at document #71039-v4 last revised on 8/9/13. All prosecutors within the Criminal Division of the Office of the Attorney General are instructed to implement this policy in all criminal prosecutions.

-

Retention of Brady Material by the Office of the Attorney General

-
When information becomes available to any prosecutor related to conduct by a law enforcement agent that may invoke a disclosure requirement pursuant to Brady, the prosecutor in possession of that material should bring the information to the attention of his/her Section Chief who is responsible for presenting the same to the Brady Review Committee (Committee, herein). The Committee is composed of the Criminal Division Chief and the Section Chiefs of the Criminal Division. It is chaired by the Criminal Division Chief.

Upon receipt of information that appears to be Brady impeachment material, the Committee shall supplement the information available by requesting any additional information it deems necessary from any relevant police agency or from other sources that may provide information that may assist the Committee in deciding if a Brady disclosure obligation exists.

If after a review of any relevant materials and information the Committee finds that a Brady obligation exists, the material upon which the Committee has based its decision shall be provided to the Division's chief supervising Office Administrator. It is the responsibility of the chief supervising Office Administrator to image and file the relevant materials in the HDM public folder entitled "CRM-Brady/Giglio Info."

IDENTIFICATION OF BRADY/GIGLIO INFORMATION AVAILABLE AT TIME OF CHARGING

-
To the extent that Brady information is known to a prosecutor prior to the time of making the initial disclosures to the defense pursuant to Rule 15, Rules of Criminal Procedure, the prosecutor assigned to the prosecution shall include within the Rule 15 written disclosure statement. Prosecutors shall check the "CRM-Brady/Giglio Info" file to identify witnesses in a case for whom a file has been created. If, based on information available to the prosecutor, Brady material is identified, prosecutors shall include the following notice to the defense:

Materials that may be a required disclosure pursuant to *Brady v Maryland*, 373 U.S. 83 (1983) are available for inspection upon request.

IDENTIFICATION OF BRADY/GIGLIO AFTER FILING OF INITIAL RULE 15 DISCLOSURE

-

Within 20 days of charging a defendant, the assigned prosecutor shall make a written request for Brady material to any law enforcement agency who employs or has previously employed witnesses in the case who are or have been law enforcement agents requesting any Brady material. The request shall be made utilizing Attachment 1 to this protocol. To the extent that materials responsive to the prosecutor's written requests may be considered Brady materials, they should be submitted to the Committee and, if deemed to be subject to mandatory disclosure by the Committee, a supplemental Rule 15 written disclosure must be made making the materials available for inspection.

Policy Regarding Release of Copies of Brady Materials

- Due to the sensitive nature of the contents of materials disclosed pursuant to Brady, our policy will be to make materials available for inspection by the defense but not to provide copies of the materials. If defense counsel desires a copy, the assigned prosecutor shall file a motion for a protective order limiting the distribution of the Brady material to the defense lawyer and the defendant.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: call Dan and say thursday is ok
Date: Tuesday, November 17, 2015 2:57:17 PM

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Conrad, Donald
Subject: Case opening sheet issues
Date: Tuesday, November 03, 2015 4:19:39 PM

M: Lisa provided me your comments.

Regarding 1, the review provided is the initial stop with you so that you can triage those cases that do not belong with the AG for any reason(s) including a better placement with another, more appropriate agency. The language requires your approval and which ultimately authorizes entry into the file Legal Files case management system. Your approval lets me know that you think it is appropriate for us to spend time and resources on an investigation, and while the COS does not ask for any written notice, you are the first line supervision alerted to a hot potato and thus informed so that you may pass along your concerns to me as you see fit. I don't see that it contradicts 3a.

I would agree that we could perhaps tune up the language in 3b (formerly 3a). Your comment is that it implies nothing should be done until the COS has been signed by me. It's not that exactly nothing should be done, but almost. What I really want is for there to be no external fact gathering from other than a complainant before I sign the COS. I want to be involved in determining that our inquiries will not set off political sirens like they have on occasions in the past. Except for opening the file in Legal Files, I don't want an investigation to proceed without my knowledge and approval. Please provide me language that you believe would better reflect our process but insure the primary goal of obtaining the desired division chief approval before we launch an investigation.

As for 3c (formerly 3b), yes, the Section Chiefs are familiar with the process set out. Admittedly the standard written there requires a judgement call on the part of the Agent or the Chief vis a vis a decision that "the investigation reaches a point that an AAG must be assigned to the case..." Sometimes that point is reached obviously when a GJ subpoena is needed. Other times are more subjective such as the need to get advice about proving a particular violation. Cases assignments are made by the Section Chiefs. It is only rarely that I weigh in on attorney selection.

The updated procedures and COS is attached as well.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Perkovich, Mark
Subject: case opening
Date: Friday, October 30, 2015 9:09:54 AM

I need to talk with you about a case opening I have in my office re; threat to [REDACTED]

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: change perkovich and block out wed at 3 p.m. and after
Date: Monday, October 05, 2015 7:57:44 AM

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: "Scot Durst"
Bcc: Conrad, Donald
Subject: Colorado City incident
Date: Thursday, October 15, 2015 1:56:47 PM

Lt. Durst:

The complaint I referred to in our telephone call a few minutes ago follows. Please let me know if your office is going to investigate this incident.

Don Conrad

From: Isaac Wyler [REDACTED]@hotmail.com]
Sent: Wednesday, October 14, 2015 1:02 AM
To: Arizona Attorney General's Office U.E.P.Trust team; Arnie Stolz; Bobela, Karen E - SOL; Brian McGrew; Bryan Bond; Chad Sampson; Charlotte Haught; Courtney Coolidge; Crockett, Jessica CRT; David Weinzweig; David Wolf; Gary France, FBI; Gary Maschner; Gzifa, Anika CRT; James Schoppman; James Schoppmann; Jesse Culty; Jessica Clarke; Jon Jonathon Teital; Joni Jones; Joseph Burgess; Kirk Torgensen; Lori Wagner; Macias, CarolynCarrie; Michael Edwards; Mike Deltenre; Mike Edwards; Paul Murphy; PJ Janik; Rich Fordham; Scott Stephenson; Sean Keveney; Sean Keveney; Steve Auld; Timna Sites; wood.mitchell@dol.gov
Subject: Startling turn of events in Colorado City today.

To those watching what is happening in Colorado City/Hildale;
Background:

Seth Cooke, Ron and Jinjer Cooke's brother, and brother-in law, had an agriculture lease agreement, along with Patrick Pipkin, from the UEPTrust, on 12 acres of land down by and along Short Creek, commonly known as the FMJ Zoo. It was properly signed by the UEPTrust's fiduciary, Bruce Wisan, and was a legal and binding contract, duly authorized by Judge Lindberg, whose court oversee's the United Effort Plan Trust.

There were people on the Zoo property without the permission of the UEPTrust, who owns the property. Consequently, Seth and Patrick legally posted the property, on all the gates and in many places on the Zoo's fences, with a "Notice to Vacate" in five days, as is done typically with commercial property in Arizona and according to the Arizona statute.

That time was legally up yesterday.

The end of the notice had this wording, "If you have any questions regarding this demand, please contact Prairie Farms LLC. We would like to talk to the occupants and see what your needs are and work something out with Prairie Farms LLC".

Sincerely,

Prairie Farms LLC 801 [REDACTED]
Seth Cooke

Since it appeared this morning, that there were still people there who hadn't contacted them in the last 6 days, though some had left, and since they had seen someone moving a fridge into the zoo, along with other belongings of a residential nature, and putting it in the tack shed, they called the Mohave County Sheriff's Office for help in enforcing their "Notice to Vacate".

Sergeant Nelson put together a task force of three Mohave County Sheriff's officers to enforce the demand. They met with Seth and Patrick, who had Andrew Chatwin there videoing everything that went on. They had some issues that have yet to be resolved, but they are a separate incident.

The important thing, is that when the Mohave County officer's left, everything was resolved. Seth and Patrick ended up giving Verelyn Young and his crew 3 hours to remove their private property, in addition to the 5 days they had already had. The flds man , Chad Johnson, claiming to be residing in the tack shed, worked out an agreement with Seth and Patrick to live in the shed etc..

Mohave County Sheriff's Officer's then cleared everyone out that wasn't supposed to be there and left the scene as it should be, so that Seth and Patrick could lock up their gates.

About 5 hours later, I was informed by Seth Cooke, that the entire watering system for the 12 acre property had been ruined and stolen during the 3 hours they had let the flds people there remove their personal property. I informed Bruce Wisan of the fact. Since this was an actual loss to the UEPTrust, he authorized me to investigate and document the theft of the water system, and any other vandalism, and turn it into the cops. I was to press charges for the violation of Judge Lindberg's injunction order, as well as destruction and theft of the property etc.. This was about five hours after Seth and Patrick had control of their property and everyone had left. They were fixing fences and securing their property with padlocks on the gates etc..

This is where it gets rather bizarre:

I arrived and looked at a small bit of the vandalized water system with Seth Cooke, Andrew Chatwin and Patrick Pipkin. It was bad and looked like the damages were going to be in the \$1,000.00's of dollars. I then called the local police and officer D. R. Barlow was dispatched to the property to investigate the crime.

When he got there, rather than go with me and take a report of the ruined water system and stolen equipment, he told me he was going to arrest me. He said that Seth Cooke, Patrick Pipkin and Andrew Chatwin were all right to be there, but that I wasn't, and said I was trespassing. He said that Seth, Patrick and Andrew were guests of Chad Johnson, but

that as "Guests", they had no right to invite me (I work for the Special Fiduciary who works for the court, essentially, the property owner) onto the property.

I called Mohave County dispatch and asked them to send at least one officer back to the property to help resolve this new conflict, instigated entirely by the Colorado City Marshal, D.R. Barlow. At the same time, this officer called his chief of police, Jerry Darger to find out what to do next.

When the Mohave County Sheriff's officer arrived (officer Portillo), he explained to the local city officer all that they had gone through this morning (he was there on the scene the entire time), but the local officer wouldn't accept the Mohave County Sheriff's Office determination that the zoo was commercial property. He wanted to keep talking to his chief of police, Jerry Darger , to get a different determination.

As our officer turned to go talk to his sergeant, officer Nelson, who had been there the whole morning with his task force, officer D.R. called his dispatch for police backup. Our officer spun around and said something like, " You realize we are on the same side don't you"? He then called Mohave County for back up, as I understood it.

Later, officer D.R. and officer Portillo explained to each other again the way things really were. I had clearly talked to D.R. about the letters from County Attorney James Schoppman concerning commercial property, but he would have none of those letters. He didn't have any interest in what the Mohave County Sheriff's Office and it's legal counsel had determined.

Officer Portillo then said that they (the two officers), would just have to agree to disagree. He said that Mr. Wyler has every right to be here at this property and asked officer Barlow if he was going to investigate the vandalism or not and take Mr. Wyler's report. He also got his sergeant, officer Nelson, on his speaker phone, who clearly told officer Barlow that his officer was taking the correct position on this matter.

Officer Barlow began the investigation of the damaged property. On the first little pasture we documented 35 sprinklers stolen and many of the pipe stands destroyed, as well as freshly destroyed sprinklers etc.. About then, 3 Washington County deputies arrived as back up for officer Portillo and local chief of police , Jerry Darger, arrived as backup for officer Barlow.

Shortly after that, another Mohave County officer, deputy Macia , arrived as backup for officer Portillo as well. Chief Darger said he was going to uphold his city attorney, Ken Brendel's position, that not only was Isaac trespassing, now Seth, Patrick and Andrew were trespassing as well. He said if we didn't leave now, he was going to have us all arrested.

Officer Portillo said that he called his officer in charge, and he had said that they were not going to stop the local cops from arresting us, but that if we were arrested, they would gather evidence and be witnesses in the case, then told the local cops that their counsel was to **not** arrest any of us.

I called Bruce Wisan, owner of the property, and the man I work for. I told him the situation and that I was willing to be arrested if the local cops pushed it that far. Bruce basically told me that this type of egregious behavior by the local cops was going to be addressed by the D.O.J. and to let the local cops run me off the property, and stop me from being able to document the vandalism damage to the UEPTrust property etc.. He said he didn't want me arrested (essentially, this was all over a tack shed that wasn't worth the wages of the officers involved in the incident that day).

I told Bruce I would leave if the local officers told me too, even though the Mohave County Sheriff's officer's were saying I had every right to be there. Officer Jerry Darger then told all of us (Seth had already gone outside the fence by then to get paperwork for the officers) to leave the property or be arrested. I took my video camera and spare batteries from Andrew and left the property as requested, even though I knew it was wrong of them to request it of me.

Then I come back to the outside of the fence and continued to ask questions and present our argument from outside of the fence. I asked D.R. if he was recording all this, because I told him that the last time I was at an arrest like this (the Emil Fischer case), they had turned **off** their recorders. I knew, because the next day, when I requested the recording from the local police department, through a "Freedom of Information Request"; They said there was no recording. This is highly irregular, because they always record my interactions with them.

DR admitted to me, in front of the Mohave County officers , that he had turned off his recorder a while ago. I then asked him to turn it back on, as this arrest unfolded. He wouldn't say he would or wouldn't. I presume he didn't, even though he walked away.

I then witnessed and videoed officer's Jerry Darger and officer Daniel Roy Barlow arrest, first Andrew Chatwin, then Patrick Pipkin, for not leaving their property. I didn't hear the officer's reading them their Miranda rights, but they may have done it in the separate police vehicles, after they were cuffed, or on the way to to what we assumed was Purgatory Jail, in Utah.

I also witnessed the Mohave County Sheriff's officer's gathering evidence and videos of the arrest etc..

These local police officers took the word of an flds man, Chad Johnson, (Andrew's brother in law), claiming to be living in the zoos tack room, who couldn't prove an occupancy agreement from the Trust to live there, couldn't prove the water, or power, was in his name, wouldn't say who authorized him to be there at all, and couldn't prove that he had any right of any kind to be there at all. Additionally, they had the word of Seth and Patrick that a fridge had been brought in the previous day at 2:30 pm, and another lady saw them bringing personal items to the tack room when she was picking her children up from school yesterday.

They took the flds mans word over someone with full documentation, and proof they were shown, of every single legal step they had gone through to be there at this time. They also went against direct admonition from the Mohave County Sheriff's officers, that they shouldn't make this arrest.

Then I videoed local officer Curtis Cooke overseeing Streamline Automotive impounding Andrew's truck and hauling it away, to an impound yard I presume, while officer Portillo witnessed it. I also videoed Seth Cooke giving officer Cooke a key to their gate.

I later found out, through private investigator Sam Brower, that Andrew and Patrick had been booked into the Purgatory Jail, and wouldn't be able to face the judge until the next morning.

Isaac Wyler

From: Scot Durst [mailto:Scot.Durst@mohavecounty.us]

Sent: Monday, October 05, 2015 4:36 PM

To: Dean McKie; Conrad, Donald; Jim McCabe; Edwards, Michael; Rodney Head; Taylor Nelson

Subject: CCTF Passdown

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: Dailey salary
Date: Monday, December 07, 2015 10:07:23 AM

I need to know what we pay lawyers with his bar

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: DOI
Date: Monday, October 19, 2015 4:25:38 PM

They only have 225. What can we give them for the extra? A part of a paralegal? I don't propose to spend any more Rico to augment what they give us to create a new position.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Perkovich, Mark
Subject: drive home cars
Date: Tuesday, December 22, 2015 8:18:28 AM

Mark, Please give me a list of agents who have cars that they drive to and from work on a regular basis.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: email to all my division
Date: Monday, October 26, 2015 9:00:49 AM

At a recent meeting of the APPAC Council I learned that the number of registrations for the summer conference will be significantly limited. If you want to attend, I urge you to respond to the APAAC email notice and request for registration as soon as it hits your inbox. Only 400 registrants will be accepted for the conference, again to be held at Star Pass in Tucson. Tucson prosecutors will again be permitted to stay at the resort for the conference.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: email to Commission on Appellate Courts Appointments
Date: Tuesday, November 17, 2015 10:19:47 AM

I have an email I want to send to the people identified in Kent's email to me in my in b ox. I want to bcc him. Would you fill in the addresses when I am away for lunch. I hope I'm leaving at 11:30.

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: firg next meeting 1/5 1:30
Date: Wednesday, December 02, 2015 10:51:23 AM

Donald E. Conrad
Division Chief Counsel
Criminal Division
(602) 542-3881

From: Conrad, Donald
To: Perkovich, Mark
Subject: FLDS 'concentration camp' goes up in Colorado City; UEP must evict or lose land | St George News
Date: Wednesday, October 14, 2015 4:38:23 PM

<http://www.stgeorgeutah.com/news/archive/2014/12/13/ccj-flds-concentration-camp-goes-up-in-colorado-city-uep-must-evict-or-lose-land/#.Vh7nImeFOUk>

From: Conrad, Donald
To: "Rodriguez, Lisa"
Subject: FW:
Date: Wednesday, November 18, 2015 2:54:07 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[0534_001-c.pdf](#)

From: Conrad, Donald
Sent: Wednesday, October 28, 2015 4:31 PM
To: Roysden, Beau; Watkins, Paul
Cc: Conrad, Donald
Subject: FW:

FYI

From: Edward F. Novak [[mailto:\[REDACTED\]@Polsinelli.com](mailto:[REDACTED]@Polsinelli.com)]
Sent: Wednesday, October 28, 2015 3:46 PM
To: Conrad, Donald; Ahler, Paul
Subject:

Don and Paul,

Attached is our response to the Tom Ryan letter complaint. If after reading it you would like more information or clarification on any point, please let me know.

I received your letter requesting additional documents from Susan and would like to discuss some of the requests with you. I don't think it will take too long. Are you available this Friday late morning of midafternoon?

Ed

Edward F. Novak

Attorney At Law

[\[REDACTED\]@polsinelli.com](mailto:[REDACTED]@polsinelli.com)

602.650.2020

One East Washington St., Suite 1200
Phoenix, AZ 85004-2568

polsinelli.com



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From: Conrad, Donald
To: Roysden, Beau; Watkins, Paul
Cc: Conrad, Donald (Donald.Conrad@azag.gov)
Subject: FW:
Date: Wednesday, October 28, 2015 4:31:17 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[0534_001-c.pdf](#)

FYI

From: Edward F. Novak [mailto:██████████@Polsinelli.com]
Sent: Wednesday, October 28, 2015 3:46 PM
To: Conrad, Donald; Ahler, Paul
Subject:

Don and Paul,

Attached is our response to the Tom Ryan letter complaint. If after reading it you would like more information or clarification on any point, please let me know.

I received your letter requesting additional documents from Susan and would like to discuss some of the requests with you. I don't think it will take too long. Are you available this Friday late morning of midafternoon?

Ed

Edward F. Novak

Attorney At Law

██████████@polsinelli.com

602.650.2020

One East Washington St., Suite 1200
Phoenix, AZ 85004-2568

polsinelli.com



Polsinelli PC, Polsinelli LLP in California

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One East Washington Street, Suite 1200, Phoenix, AZ 85004-2568 • 602.650.2000

October 28, 2015

Via United States Mail

Edward F. Novak
(602) 650-2020
(602) 532-7128 Direct Fax
[REDACTED]@polsinelli.com

Melissa S. Ho
(602) 650-2028
(602) 926-2376 Direct Fax
[REDACTED]@polsinelli.com

Don Conrad
Paul Ahler
Assistant Attorney General
Attorney General's Office
1275 W. Washington St.
Phoenix, AZ 85007

Re: Susan Bitter Smith

Dear Don and Paul,

On September 1, 2015 Tom Ryan filed a quo warranto complaint with the Office of The Attorney General. In it, he alleges conflicts of interest stemming from Commissioner Bitter Smith's work for the Southwest Cable Communications Association and her company, Technical Solutions. The quo warranto complaint also alleges a conflict of interest based on Commissioner Bitter Smith's lobbying work for Southwest Cable Communications Association (the "Association") of which Cox Communications Arizona LLC; a cable company is a member.

Although no formal response is required, we do so on behalf of Ms. Bitter Smith. No legal basis exists for the claim that Ms. Bitter Smith has violated any statutory or constitutional provision. The complaint should be dismissed.

The Commission does not Regulate the Cable Industry

Arizona Courts have ruled that "cable companies are not common carriers" and, thus, cable companies do not fall within the definition of a public service corporation, regulated by the Commission. *See American Cable Television v. Arizona Public Service Company and Arizona Corporation Commission*, 143 Ariz. 273, 693 P.2d 928 (App. 1983). The United States Supreme Court has also held that cable operators are not common carriers. *FCC v. Midwest Video Corp.*, 440 U.S. 689 (1979).

polsinelli.com

Chicago Dallas Denver Kansas City Los Angeles New York Phoenix St. Louis Washington, D.C. Wilmington

Polsinelli PC, Polsinelli LLP in California

51513161.7



Don Conrad
October 28, 2015
Page 2

Cable service is defined as “(A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection or use of such video programming and other programming service.” 47 U.S.C. §522(6). A cable system is a “facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community....” 47 U.S.C. §522(7).

The term “telecommunications industry” as described by the Commission includes “local telephone service, long distance telephone service, cellular/digital telephone service, paging service, internet service and a wide array of competitive products and services.”¹ The Commission’s definition does not include cable services.

A “Telecommunications Company” is defined in Title 14, Chapter 2, Article 11 of the Arizona Administrative Code as “A public service corporation, as defined in the Arizona Constitution, Article 15 § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.”

“Telecommunications Service” is further defined as “Any transmission of interactive switched and non-switched signs, signals, writing, images, sounds, messages, data or other information of any nature, by wire, radio, lightwave, or any other electromagnetic means (including access services), which originate and terminate in this state and are offered to or for the public, or some portion thereof, for compensation.”

Consistent with federal law, the State of Arizona enacted statutes regarding local governments’ authority to regulate cable operators in the state. See A.R.S. §9-505, et.seq. Finally, there is nothing in Title 14, Chapter 2, Article 11 granting the Corporation Commission authority to regulate the providers of cable services, an area preempted by Federal law.

Simply put, cable companies are not common carriers and thus, are not public service corporations. Cable companies are different from “telecommunications companies” providing “telecommunications services,” as defined by Arizona law.

Cox Communications Arizona and Coxcom Inc.

Cox Communications Arizona, LLC is a Delaware limited liability company. Cox Communications Arizona was formed in August 2011 by CoxCom LLC. CoxCom LLC is the

¹ http://www.azcc.gov/divisions/utilities/telecom/gen_info.asp



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Page 3

sole member of Cox Communications Arizona. Cable services are provided pursuant to a license issued to CoxCom LLC.

Cox Arizona Telecom LLC provides telephone services in Arizona. It is a legally separate company from both CoxCom LLC and Cox Communications Arizona LLC.

Commissioner Bitter Smith's work in addition to her Duties as a Corporation Commissioner

Commissioner Bitter Smith was elected to a four year term on the Commission starting January 2013. She currently serves as its Chair and is a member of the National Association of Regulatory Commissioners (serving on its Water Committee as well as the Subcommittee on Education and Research). She is the President of the Western Conference of Public Service Commissioners.

Southwest Cable Communications Association

Commissioner Bitter Smith has served as the Executive Director of the Southwest Cable Communications Association since 1980. She does not have an employment contract with the Association. Commissioner Bitter Smith previously submitted a letter to Jodi Jerich, the Executive Director of the Commission on February 15, 2013. In that letter (attached), Commissioner Bitter Smith again disclosed her employment at the Association whose members are licensed cable television operators in Arizona and New Mexico. The disclosure was filed so that it could be made available for public inspection.

Technical Solutions

Technical Solutions is a public affairs firm, Commissioner Bitter Smith has served as Vice President of it since 1988.

History of Commissioner Bitter Smith's Lobbying Work

Initially it is important to state that Commissioner Bitter Smith is not and has never been employed by any Cox entity. Commissioner Bitter Smith is a registered lobbyist for Cox Communications Arizona, LLC and Coxcom Inc.; Southwest Cable Communications Association and Technical Solutions. (See Registrations with the Arizona Secretary of State and City of Phoenix). None of these Companies is engaged in activities regulated by the ACC.

Further, Commissioner Bitter Smith is also a registered lobbyist for the Arizona Chapter of the National Academy of Elder Law Attorneys.



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Page 4

Commissioner Bitter Smith's status as a lobbyist was disclosed at all times including when she was a candidate and while she has been in office to both the legal department as well as to the Executive Director of the Commission. Prior to running for the Commission she sought and received legal advice on the conflicts issues and was told there were no conflicts. No written record of the advice exists.

There has been no violation of A.R.S. § 40-101:

Commissioner Bitter Smith does not hold stock in a regulated entity, nor does she have a pecuniary interest in any regulated entity.

A.R.S. §40-101: Interest of commissioner or employee prohibited in corporation subject to regulation

A person in the employ of, or holding an official relation to a corporation or person subject to regulation by the commission, or a person owning stocks or bonds of a corporation subject to regulation, or a person who is pecuniarily interested therein, shall not be elected, appointed to, or hold the office of commissioner or be appointed or employed by the commission. If a commissioner, or appointee or employee of the commission becomes the owner of such stocks or bonds, or becomes pecuniarily interested in such a corporation involuntarily, he shall within a reasonable time divest himself of such stocks, bonds or interest. If he fails to do so, he thereby vacates his office or employment.

Prior guidance interpreting A.R.S. §40-101

Jennings v. Woods, 194 Ariz. 314 (1999): Renz Jennings, the defeated incumbent for a Corporation Commission seat sought to oust the winner of the seat, Tony West. Mr. West was a licensed securities salesman who was also employed by a registered securities dealer. The Supreme Court found that Mr. West had a conflict of interest where it was clear he worked for an entity subject to regulation by the Corporation Commission. (Reasoning that the Arizona Corporation Commission issues licenses to securities sales persons and their broker employees, and that the Corporation Commission through Title 44 of the Arizona Revised Statutes has broad regulatory authority over securities.)

Jennings v. Woods has no applicability where Commissioner Bitter Smith is not employed by any entity subject to Commission oversight. Neither Technical Solutions nor Southwest Cable Communications Association are subject to regulation by the Arizona



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Corporation Commission. Further, lobbying work on behalf of the cable subsidiary of Cox Communications, (Cox Communications Arizona, LLC) does not violate A.R.S. §40-101.

The Federal Communications Act as amended 47 U.S.C. §§521 et. seq. governs the national policy concerning cable communications and preempts the state's authority to regulate cable matters. The Commission has the narrow authority to regulate the telephone business of Cox, but not its cable business. Commissioner Bitter Smith's narrow lobbying work through the Association on behalf of the cable subsidiary of Cox Communications does not create a pecuniary interest in a parent or affiliated entity which is regulated by the Commission.

Bundling of Services is a marketing device: it does not result in a comingling of legal entities

Commissioner Bitter Smith is not a Cox employee and never has been. She performs lobbying work for Cox's cable entities only. Working for one legal entity does not mean that she does work on behalf of all legal entities even where all may have a common parent.

The National Labor Relations Board has concluded where one subsidiary does not have the authority to hire, fire, or supervise the individual, that individual is not an employee of both subsidiaries or the parent. (See Local 2208, Int'l Bhd. Of Elec. Workers, 285 N.L.R.B. 834 (1987) finding that Simplex Wire and Cable, and its parent company, Tyco Laboratories were not a single employer).

While Cox may sell bundled internet/cable television/telephone services to residences and businesses in Arizona, it does so as marketing tool and as a convenience to its customers. Bundling does not nullify the legal separateness of the various subsidiaries.

Attached is an actual Cox residential customer bill statement for cable, phone and internet services. All three services are separately listed but on the same bill. Mr. Ryan's logic suggests that Cox services should be separately billed to maintain legal separation. He would have Cox send this customer three separate bills. Does that make any sense at all? Bundling for advertising or billing purposes does not blur the legal lines between subsidiaries of a corporation and Mr. Ryan has provided no legal support for his position.

Commission Bitter Smith has no pecuniary interest in a regulated entity as defined by A.R.S. §40-101

A.R.S. §40-101 does not specifically define "pecuniarily interested". A.R.S. §38-503(B) as interpreted by the Arizona Court of Appeals is instructional. §38-503(B) provides that a public officer or employee with a "substantial interest" in a decision of a public agency must

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Page 6

disclose the interest and refrain from participating in any manner in the decision. "Substantial interest" at the time was defined as an interest that did not fall into one of the seven categories of interests defined as "remote interests." To save the definition from being unconstitutionally vague, the court held that "the term refers to a pecuniary or propriety interest, by which a person will gain or lose something as contrasted to general sympathy, feeling or bias." *Yetman v. Naumann*, 492 P.2d 1252, 1255 (Ariz. Ct. App. 1972). The decision was subsequently codified in A.R.S. §38-502(11) ("Substantial interest" means any pecuniary or propriety interest, either direct or indirect, other than a remote interest."); *Hughes v. Jorgenson*, 50 P.3d 821, 824 (Ariz. 2002) (noting the amendment). "Pecuniary" means money; "proprietary" means ownership. *Shepherd v. Platt*, 865 P.2d 107, 109 (Ariz. Ct. App. 1993).

Commissioner Bitter Smith has no pecuniary interest in any Cox telephone subsidiary. She does no work for the telephone subsidiary. Mr. Ryan has not provided any evidence to show that Ms. Bitter Smith has a "substantial interest" in any decision of the Commission related to the telephone subsidiary.

Interest in subsidiary does not equate to interest in the parent company

Recognizing that corporate entities often comprise many separate entities including subsidiaries, the Arizona State Bar provides guidance to attorneys who work with corporations. In comment [33] to Ethical Rule 1.7 (Conflict of Interest: Current Clients), attorneys are reminded that

"A lawyer who represents a corporation or other organization does not, by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary. See ER 1.13(a). Thus, the lawyer for an organization is not barred from accepting representation adverse to an affiliate in an unrelated matter..."

Mr. Ryan provides no authority to suggest that Ms. Bitter Smith should be held to some higher standard. While Commissioner Bitter Smith lobbies on behalf of the Cox Communications Arizona (a cable company), that does not make her an interested party, employee, or representative of other affiliate companies which are regulated by the Commission.

Connect America Fund

Commissioner Bitter Smith has not worked directly for Connect America, she has communicated on behalf of the Southwest Cable Communications Association members regarding broadband grants and deployment, but never for telephone matters. Commissioner Bitter Smith previously filed a notice on behalf of two of her Association members who met with

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Page 7

an FCC commissioner. She did not attend that meeting. The meeting related to the Rural Broadband Experiment grant. A letter is attached describing that meeting. Commissioner Bitter Smith has done no work for Connect America, lobbying or otherwise.

Commissioner Bitter Smith's Recusal Record

Commissioner Bitter Smith has historically recused herself from votes affecting the telephone side of the cable association members. While there is no conflict in voting, she does so to avoid the appearance of a conflict.

There are three inadvertent instances where Commissioner Bitter Smith and her staff failed to note her desire to recuse.

1) and 2) Tariff increases for Cox: These matters were on the consent agenda, neither Commissioner Bitter Smith nor her staff realized it in time to take it off of the consent agenda. The consent agendas are often long and contain voluminous material.

3) Mercury Voice & Data: Mercury Voice & Data is a d/b/a for Suddenlink Communications. Commissioner Bitter Smith was not aware of Mercury Voice & Data's affiliation with Suddenlink at the time of her vote. (Suddenlink Communications is a member of the Association).

Technical Solutions work for Yam Holdings:

YAM Holdings is a client of Commissioner Bitter Smith (through her company Technical Solutions). The work involved securing the entitlements for the Scottsdale National Golf Course which Yam is building. The design of the golf course calls for the relocation of an APS substation. However, all work relating to the relocation of the substation was handled in-house by APS. The contract between YAM Holdings and Technical Solutions involved work to change the entitlements on the site as well as to resolve where a maintenance building would be located. The City of Scottsdale approved the relocation of the substation consistent with the APS proposal, and not as result of any proposal of YAM. The substation has been approved by the Development Review Board while YAM's proposal has yet to go through that process. The golf course expansion still has to go through the city of Scottsdale's Development Review Process (which will determine design approvals such as paint colors and roof materials). This should occur soon with construction to begin in November or December of this year.

Commissioner Bitter Smith attended one meeting with HOA members who expressed concern about the substation location, as did Brad Larson, the APS representative responsible for the relocation. The HOA board invited YAM and APS to their normally scheduled board



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meeting. Any of the required public meetings held on the two projects (substation and golf course) had separate public notices and were managed by separate development teams from YAM and APS.

The substation itself is small enough (67,000 volts) to exempt it from regulation by the Arizona Corporation Commission. (See A.R.S. §40-360 regulating transmission lines capable of transmitting voltages of one hundred fifteen thousand volts or more)

At all times Commissioner Bitter Smith was employed by YAM Holdings, never by APS. Further, the substation at the golf course is not one that is regulated by the Arizona Corporation Commission. There is no conflict. Commissioner Bitter Smith never worked for, nor lobbied on behalf of APS on this non-regulated issue.

No issue working for two employers

Like many Arizonans, Commissioner Bitter Smith works more than one job. There is no prohibition against a full time Corporation Commissioner also working a second job. Few public service jobs are so limited, many legislators and most Corporation Commissioners past and present have held second jobs.

Commissioner Bitter Smith has not missed one meeting of Arizona Corporation Commission. Her role as Chair of the Commission does not confer additional salary or benefits, but does provide for additional responsibilities and work which Commissioner Bitter Smith has completed. Additionally, she is Chair of the Western Conference of Public Service Commissions which is a volunteer position. Never has her ability to serve the State been compromised by her secondary employment.

Conclusion

At no point has Commissioner Bitter Smith violated A.R.S. §40-101 or §38-503. Her work on behalf of Southwest Cable Communications Association and Technical Solutions was properly disclosed and well known to those working at the Commission and the general public. Commissioner Bitter Smith is a registered lobbyist for the cable subsidiary of Cox Communications; the cable industry is not regulated by the Commission. There is no pecuniary interest in the company where she holds no stock, and has no interest in other subsidiaries or companies related to Cox.

A "conflict of interest does not exist merely because a public officer acts in a way that appears to be a conflict in the eyes of the public or prosecutors. The specific terms of the statute control." *See State v. Ross*, 151 P.3d 1261, 1265 (Ariz. Ct. App. 2007). Admittedly, the work of



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the Commission is not well known to members of the public. Compounding the confusion are terms like, "telecommunications company" and "telecommunication services"; terms which the public does not accurately understand. The cable industry is itself outside of the Commission's purview, preempted by federal law. No Arizona state statute or constitutional provision has been violated.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Novak", written over a horizontal line.

Edward F. Novak
Melissa S. Ho

EFN:ec
Attachments

COMMISSIONERS
BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH



SUSAN BITTER SMITH
Commissioner

ARIZONA CORPORATION COMMISSION

February 15, 2013

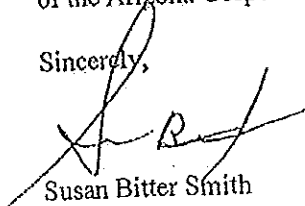
Ms. Jodi Jerich
Executive Director
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Dear Ms. Jerich,

I am currently employed as the Executive Director of the Arizona-New Mexico Cable Communications Association whose members are licensed cable television operators in the states of Arizona and New Mexico. These members are listed on the Arizona-New Mexico Cable Communications Association website and in the association's IRS Form 990 tax return which is publically filed. This employment does not and will not create any conflicts of interest as identified in A.R.S. § 38-501 et seq.

However, to ensure transparency I am asking that this disclosure be filed in the official records of the Arizona Corporation Commission where it will be available for public inspection.

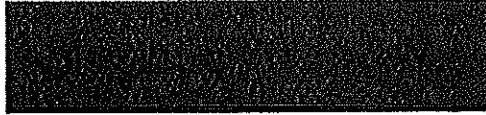
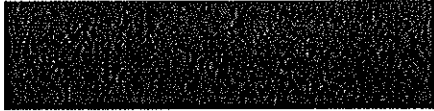
Sincerely,


Susan Bitter Smith
Commissioner



September 23, 2015

(NOT FOR PAYMENTS)
PO BOX 1259
DEPT. # 102285
OAKS, PA 19456

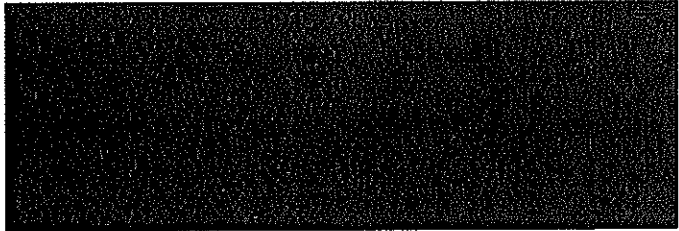


Contact Us
www.cox.com
623-594-1000
or
866-867-7644



Thank you for choosing Cox Communications as your telecommunications provider.

ACCOUNT SUMMARY as of Sep 23, 2015

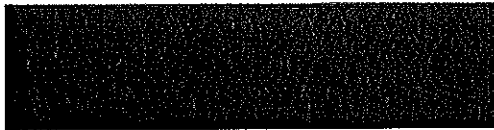


Thank you for being a valued customer.

continued in News from Cox



Save Time! Save Money! Take control! Enroll in EasyPay - once you set it you'll never forget it. Your bill is automatically paid each month on the day it's due. Sign up today at www.cox.com/tbill



TOTAL DUE BY Oct 17, 2015 **\$219.50**

Please check box to add optional charitable contribution **\$1.00**
(see back of stub for more information)

TOTAL PAYMENT ENCLOSED \$ _____

COX COMMUNICATIONS
PO BOX 78071
PHOENIX AZ 85082-8071



SUMMARY OF CHARGES

Monthly Services	\$198.49
Taxes, Fees and Surcharges	21.01
NEW CHARGES	\$219.50

MONTHLY SERVICES Sep 22 - Oct 21

TV	
Cox Adv TV Ultimate - 4 Premiums and Record 6	
<i>Includes:</i>	\$104.97
Record 6 DVR Service	
Cox TV Starter	
Expanded Service	
Contour Guide	
Faith & Values Pak	
Advanced TV Service	
Movie Pak	
Sports & Information Pak	
Variety Pak	
Bonus Pak	
Cinemax	
HBO	
Showtime	
Starz	
Ultimate 6 Discount	\$-26.98
	\$77.99
Contour Record 6 Receiver	\$8.50
Contour Receiver (qty 2)	17.00
Advanced TV (qty 2)	3.60
Bundled Savings Pak	-13.70
Cox Service Protection Plan	6.99
Total TV	\$100.38

INTERNET

Monthly Services cont.
Cox High Speed Internet Preferred
Includes:

Preferred Internet Service
Download speeds up to 50 Mbps.
(DOCSIS 3.0 modem required)
50 GB free Cloud Drive storage.
Over 400,000 WiFi hotspots.
Cox Security Suite Plus.
PowerBoost (R) for large downloads.

	\$64.99
Total Internet	\$64.99

TELEPHONE

Connection 60
Includes:
Connection 60
Cox Long Distance*
Basic Monthly Service
Simply 5 Long Distance Plan
Solutions Feature Package

	\$31.99
Federal Excise Tax Credit	\$-0.87
Directory Listing - Non Published	2.00
Total Telephone	\$33.12

TOTAL MONTHLY SERVICES	\$198.49
-------------------------------	-----------------

TAXES, FEES AND SURCHARGES

TV Fees	\$0.17
City Tax	4.72
License Fee	4.89
Total TV Fees	\$4.89
Telephone Taxes, Fees and Surcharges	
Taxes	
Federal Excise Tax	\$1.08



Payment options

Online: Visit www.cox.com to register for 24-hour online access or make payments to your account.

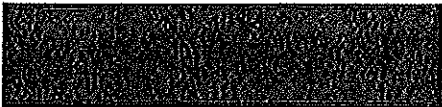
Mail: Detach this coupon and send it with your check or money order. Please include your account number on your check. Make your checks payable to Cox Communications. Allow 7 days for processing.

Phone: Call the number listed under the "Contact Us" section on the front of this bill anytime and follow the phone prompts to make a payment using your bank account or credit card.

In Person: Visit www.coxazstores.com for a list of Cox authorized Payment Centers.

Optional contribution to Cox Charities: Your \$1.00 contribution, combined with donations from other Cox customers and Cox employees, supports local youth and education programs that help ensure a brighter future for all Arizonans. For more information, please visit <http://www.cox.com/community>.





Taxes, Fees and Surcharges cont.	
Telecommunication Fund for the Deaf	0.23
E911 Tax	0.20
Total Taxes	\$1.51
Fees and Surcharges	
FCC Access Charge	\$7.10
County Sales Tax	0.21
Local Telecommunications	1.57
Federal Universal Service Fund	2.50
Carrier Cost Recovery Fee	1.49
State Regulatory Assessment	0.06
State Sales Tax	1.67
State Universal Service Fund	0.01
Total Fees and Surcharges	\$14.61
Total Telephone Taxes, Fees and Surcharges	\$16.12
<hr/>	
TOTAL TAXES, FEES AND SURCHARGES	\$21.01
<hr/>	
TOTAL NEW CHARGES	\$219.50

NEWS FROM COX

Your bundle discount is applied to the video portion of your bill.

Save Time! Save Money! Take control! Enroll in EasyPay - once you set it you'll never forget it. Your bill is automatically paid each month on the day it's due. Visit www.cox.com/easypay123 to sign-up.

CUSTOMER INFORMATION

Billing, Payment Policies and Fees:
Cox Communications bills all customers in advance for monthly recurring charges and in arrears for non-recurring charges such as On Demand/pay-per-view and long distance. Payment in full is due to Cox by the "Due By" date indicated on your statement. If payment is not received by this date, your bill will become past due and may be subject to additional fees, such as late payment charges, electronic reactivation fees, or returned payment fees. Payment of your Cox bill confirms your subscription to services and the possession of Cox owned equipment listed on your bill.

When you provide a paper, electronic check or electronic fund transfer (EFT) as payment, you authorize Cox to process your payment as a traditional check transaction or to make a onetime EFT from your account. An EFT may debit your account as soon as the same day you make your payment. Payments returned unpaid to Cox for any reason will incur a returned payment fee of up to \$25.00, or the maximum allowed by state law. By using a credit card, debit card, paper check or an electronic check to make a payment to Cox, you agree that, if your payment is returned unpaid, you expressly authorize a one-time electronic fund transfer from your account for the amount of the payment plus any returned payment fees. If payment is not received by the "Due By" date indicated on your statement, a late payment charge of up to \$8.00 may be assessed to your account.

For more details on billing and payment policies visit www.cox.com/aboutus/policies/residential-billing-and-payment.cox or contact a customer service representative.

Closed Captioning Issues
For issues regarding closed captioning, please contact Cox customer service at the number listed at the front of this bill. If your concerns are not addressed, please contact W.F. Holt, Closed Captioning, Cox Communications, 1400 Lake Hearn Dr. NE, Atlanta, GA 30319; Phone: 888-278-6660, Fax: 404-847-6257, Email: closedcaption@cox.com

Free Previews Coming Soon for Cox TV customers!

During the upcoming Free Preview Weekend in November, customers who subscribe to a Cox TV Economy or a Cox Advanced TV package will have free access to view several premium and Movie Pak networks including their

Customer Information cont.
OnDEMAND (channel 1) content. The previews will include STARZ and ENCORE, with access to STARZ Play and ENCORE Play online from November 23rd through November 30th.

During the free preview, these channels may contain NC-17 or R rated programming. To restrict access to this programming you can use the Parental Control feature on the Cox receiver. To request that the channels be blocked completely, please call the number on this bill to speak with a Customer Care representative.

An asterisk (*) next to a specific telephone charge on your bill indicates an unregulated charge. Failure to pay telephone charges may result in interruption of your telephone service. Your basic local telephone service will not be interrupted for failure to pay any unregulated telephone charge.

Safety Information for your Phone Service
Your telephone service, including access to E911, will operate for up to 8 hours during a power outage only if a backup battery is installed, and is fully charged. You are responsible for ordering, installing, and monitoring the status of the battery. If this modem's battery indicator shows that you need a battery or your battery needs replacing, you can purchase one by calling 1-855-324-7700 or visiting a Cox retail store. Find more information at www.cox.com/battery. To ensure that E911 dispatchers receive your correct address, the installed modem should not be moved within your home or to another address. Please notify Cox if you would like to move your telephone modem.

Cox Long Distance: If you have questions concerning rates, terms and conditions of your Cox interstate or international long distance services, please refer to the Customer Services Agreement posted on our website at <https://www.cox.com/telephone/customerservicesagreement.asp>.

Blocking 3rd Party Charges
As a Cox customer you have the ability to block 3rd party charges on your bill, such as collect and operator assisted calls. Please call Cox Customer Care at the number on this bill statement if you would like to block 3rd party charges.

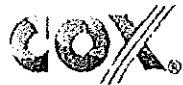
Billing Dispute and Resolution: If you have any questions or disagree with any portion of your bill, please contact us at the phone number on the front of this statement no later than 60 days from the due date indicated.

TV Customers: If after contacting Cox we are unable to resolve your concern about your TV Service, you may file a complaint with your local franchising authority: City of Phoenix, 251 W. Washington, 6th Floor, Phoenix, AZ 85003

Phone Customers: If after contacting Cox we are unable to resolve your concern about your Phone Service, the service may be subject to state regulation and you may file a complaint with your states regulatory authority below.

Arizona Corporation Commission, 1200 W. Washington St, Phoenix AZ 85007.



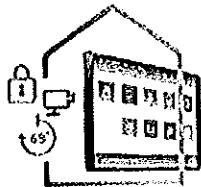


Good Night Sleep Tight

Home sweet home is now home smart home. In addition to 24/7 professional monitoring, Cox HomelifeSM alerts you to risks due to carbon monoxide, fire or flood. So while we can't say when you'll sleep through the night, we can say we can help you rest better, immediately.



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PROFESSIONALLY MONITORED SECURITY

As low as:

\$29.99^{*} /MONTH

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QUALIFYING PACKAGES INCLUDE:

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*Monthly service fee as low as \$29.99/mo for Cox Homelife Essential service plan and available to residential customers with new or current subscription to one or more of Cox video, Internet and/or phone service in select Cox service areas. Offer expires 9/30/15. Free standard professional installation with new installation of Homelife Preferred service plan. Certain advertised features require Preferred service plan. A high-speed Internet connection is required and is not included in price. Additional equipment fees may be extra. Touchscreen equipment is also required and is not included. \$3.00/month rental fee applies. Touchscreen remains property of Cox and must be returned to Cox upon termination of service to avoid additional charges. Applicable monthly service charges, installation, additional equipment, taxes, trip charges and other fees may apply. All prices and packages are subject to change. Month-to-month and home security service only pricing available. Subject to credit approval. Other restrictions may apply.

*Prepaid card offer available to new residential customers subscribing to Cox Homelife Preferred with a 3-year agreement and purchasing additional equipment valued at \$300 or more (initial base kit is free with 3-year agreement and does not apply toward equipment purchase). Lesser value cards with as little as \$100 additional equipment purchase. Inquire or go to www.cox.com/homelife/payout for details. Cox Visa Prepaid Cards are issued by MetaBank[®] Member FDIC, pursuant to a license from Visa U.S.A. Inc. Card does not have cash access and can be used at any merchants that accept Visa debit cards. Card valid through expiration date shown on front of card. Other restrictions may apply.

Local ordinances may require an alarm user permit. Las Vegas customers will incur an additional monthly verified response fee (currently \$4.00/mo.). Service provided by Cox Advanced Services: Arizona, LLC-License No. P12-1332, Arkansas, LLC-License No. E 2014 0026, California, LLC-Alarm License #7196 & Contractor's License #192992, Connecticut, LLC-License IN/A, Florida, LLC-License No. FF20001237, Georgia, LLC-License: Raymond Williams 11VA205602, Iowa, LLC-FC121646 & AC768, Louisiana, LLC-License F 2006, Nebraska, LLC-License #26512, Nevada, LLC-License #78331, Ohio, LLC-License #53-18 1671, Oklahoma, LLC-License #2007, Rhode Island, LLC-License #9316, Texas, LLC-License No. 109, Virginia, LLC-License #2015-36492, Virginia, LLC-License #11-7776. © 2015 Cox Communications, Inc. All rights reserved. GC-APH1-12 SA4FF007

From: Conrad, Donald
To: Bailey, Michael
Subject: FW:
Date: Monday, October 19, 2015 12:58:12 PM
Attachments: 10-21-15%20Roster-4,numbers

See new location list for searches.

From: Piano, Vince
Sent: Monday, October 19, 2015 11:51 AM
To: Conrad, Donald
Subject: RE:

Don they added a location use this roster for the addresses. Disregard the last roster. The business locations are:

Shangri-La Spa located at 6670 W Cactus Rd #A-101, Glendale, AZ

Water Wood Massage located at 10806 North 71st #B, Scottsdale, Arizona

Enjoy Massage located at 4306 West Northern Avenue, Glendale, Arizona

Arizona Financial Crimes Task Force

Vincent J. Piano

TRAC Director

Special Agent Supervisor

Arizona Attorney General's Office

1275 W. Washington Ave

Phoenix Arizona 85007

[REDACTED]@azag.gov

Desk: 602 [REDACTED]

Mobile: 602 [REDACTED]

LAW ENFORCEMENT SENSITIVE

NOTICE: This message is intended exclusively for the individual or entity to which it is addressed. This communication contains information that is law enforcement sensitive, for official use only, sensitive but unclassified, proprietary, privileged, and may be legally protected or otherwise exempt from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution of this transmission is strictly prohibited. If you have received this message in error, please notify the sender immediately by email and immediately delete this message and all of its attachments.

From: Piano, Vince
Sent: Monday, October 19, 2015 11:46 AM
To: Conrad, Donald
Subject:

We brief tomorrow at HIDTA 10/20/15 at 10am. Serve the warrants on the houses 10/21/15 at 7:30am at the attached locations with the massage parlors following the houses. The booking/ interviewing will occur at the DPS facility. We can talk about the press release tomorrow when we meet reference the conference.

Also..You are on the Carlsbad calendar , I will get the information to you before January. January 20 and depart on January 26.

Arizona Financial Crimes Task Force

Vincent J. Piano

TRAC Director


Special Agent Supervisor


Arizona Attorney General's Office

1275 W. Washington Ave

Phoenix Arizona 85007

@azag.gov

Desk: 602-

Mobile: 602-

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From: Conrad, Donald
To: Rodriguez, Lisa; Madsen, Annalisa
Cc: Ahler, Paul
Subject: FW:
Date: Thursday, October 01, 2015 7:59:55 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[20150930175321904-c.pdf](#)

Rob, On you return please follow up on the downloads of these devices used by Ms. Bitter Smith and her secretary.

FYI:

I have talked with Janice Alward and let her know that we would be making this request for access to copy computers and phones. I told her we were getting a written consent from Bitter Smith. Her primary concern was the public records redaction. I told her our approach would be the same. We don't want to embarrass anybody but we also don't want to redact things that don't really matter.

From: Edward F. Novak [mailto:██████████@Polsinelli.com]
Sent: Wednesday, September 30, 2015 4:23 PM
To: Conrad, Donald; Ahler, Paul
Subject:

Gentlemen,

The original will come in the mail. I trust this will suffice.

Ed

Edward F. Novak
Attorney At Law

██████████@polsinelli.com

602.650.2020

One East Washington St., Suite 1200

Phoenix, AZ 85004-2568

polsinelli.com



Polsinelli PC, Polsinelli LLP in California

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

COMMISSIONERS
SUSAN BITTER SMITH - Chairman
BOB BURNS
TOM FORESE
DOUG LITTLE
BOB STUMP



ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH
Chairman
Direct Line: (602) 542-3625
Fax: (602) 542-3669
E-mail: Bittersmith-web@azcc.gov

September 30, 2015

Mr. Donald Conrad
Mr. Paul Ahler
Office of the Arizona Attorney General

Via Email

Dear Mr. Conrad and Mr. Ahler:

You have requested my consent to image my Arizona Corporation Commission computer, phone, and the computer of my assistant at the Commission. I have no objection to that request.

You will need to coordinate your request with the Commission's General Counsel, Janice Alward or its Executive Director, Jodi Jerich.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Bitter Smith".

Susan Bitter Smith
Chairman

From: Conrad, Donald
To: Bailey, Michael
Subject: FW:
Date: Monday, December 14, 2015 8:27:42 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

I'd like to talk with you about this issue. With Paul too.


From: Edward F. Novak [mailto:██████████@Polsinelli.com]
Sent: Monday, December 14, 2015 8:22 AM
To: Conrad, Donald
Subject:

Don,

Have you had the chance to meet with the boss on the criminal investigation question?

Ed

Edward F. Novak
Attorney At Law

Visit Our 

██████████@polsinelli.com

602.650.2020

One East Washington St., Suite 1200
Phoenix, AZ 85004-2568

polsinelli.com



Polsinelli PC, Polsinelli LLP in California

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From: [Conrad, Donald](#)
To: [Rodriguez, Lisa](#)
Subject: FW: 11/18/15 POST Board Meeting
Date: Wednesday, November 04, 2015 8:21:13 AM
Attachments: [November 18 Agenda.pdf](#)

Pls rsvp and calendar

From: Sandy Sierra [<mailto:sandys@azpost.gov>]
Sent: Wednesday, November 04, 2015 8:01 AM
To: Alan Rodbell; Charles Ryan; Chris Andreacola; Cornel Stemley; Dave Brown; Conrad, Donald; Frank Milstead; Jeffrey Coker; Mike Olson; Scott Mascher
Cc: Amy Funari; Leah Peller; Vickie Toll; Cathy David (Cathy.David@yavapai.us); Rodriguez, Lisa
Subject: 11/18/15 POST Board Meeting

Good morning everyone,

Please let me know if you will or will not be attending the meeting on November 18th.

Thank you.

Sandy Sierra

Arizona Peace Officer Standards and Training Board
602-774-9352
Work: Mon-Thu
0600-1600



Arizona Peace Officer Standards and Training Board

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514 Fax (602- 244-0477

NOTICE OF PUBLIC MEETING AND AGENDA

Pursuant to the Americans with Disabilities Act (ADA), the Arizona Peace Officer Standards and Training Board endeavors to ensure the accessibility of its meetings to all persons with disabilities. Persons with a disability may request reasonable accommodation, such as a sign language interpreter, by contacting Sandy Sierra at (602) 774-9352. Requests should be made as early as possible to allow time to arrange the accommodation.

Notice is hereby given pursuant to A.R.S. §38-431.01, that the Arizona Peace Officer Standards and Training Board will hold a meeting open to the public at **10:00 a.m., Wednesday, November 18, 2015**, at its administrative building, located at 2643 E. University Drive, Phoenix, Arizona. Notice is hereby given that the Board may vote to go into Executive Session pursuant to A.R.S. §38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the attorney or attorneys of the public body regarding any item on this agenda. The chair may take items out of order.

- A. Call to Order
- B. Introductions, Presentations and Announcements
- C. Consent Agenda

The following items make up the Consent Agenda. These items will be considered for approval as a single action; unless a Board member or any other interested party wishes to remove an item to be discussed.

1. Approval of Minutes:
 - September 14, 2015, Special Complaint Subcommittee
 - September 16, 2015, Board Meeting
 - October 9, 2015, Rules Meeting
 - October 21, 2015, Board Meeting
2. Review, discussion and possible action on Ministerial Actions. The following actions have been taken by staff upon Board instruction since the last regular meeting. The specific lists pertaining to the following items will be available for public inspection, at least 24 hours prior to the meeting, at the Arizona Peace Officer Standards and Training Board office, 2643 East University Drive, Phoenix, AZ, phone (602) 774-9352. By approving this item, the Board adopts and ratifies those actions:
 - a. Certification Waivers
 - b. Instructor Recognition
 - c. Training Program Confirmations

3. Review, discussion and possible action on Income & Expense Statement for October 2015
4. Review, discussion and possible action on 2016 Board Schedule

D. Executive Director's Report

The Board may receive updates on any of the following Report items; it may discuss, provide direction or ask questions of the Executive Director on any of these items. The order of the Report is at the discretion of the Executive Director and the Chairman and may be revisited at any time during the meeting.

1. Special Initiatives
 - a. Blue Courage
 - b. President's Task Force on 21st Century Policing
 - c. Below 100
2. Identification of AZ POST Administrative Rules, A.A.C. R13-4-101 *et seq.*, the Board may consider revising. Update on any pending, future Board actions, or application of current administrative rules.
3. Budget (Including Expenditures and Revenues)
4. Board communications with law enforcement associations, groups and agencies.
5. Board personnel and staffing.

E. Legislative Update

The Board will receive updates on enabling statute changes and on the progress of Bills of interest to the Board; it may provide direction to the Executive Director concerning positions to take on any legislation impacting the Board's authority or duties.

F. Summary of Current Events that affect the Arizona Peace Officer Standards and Training Board (AZ POST).

This is the time for the Chair or Executive Director to give a brief summary on current events that affect the Board. It is informational only and no discussion may occur.

- G. Review, discussion and possible action on the National Certification Program from IADLEST and establishment of on-line learning for continuing training credit for officers.
- H. Review, discussion and possible action on training deficiencies for Officer Nolan Thompson – AZ Department of Racing
- I. Review, discussion and possible action on training deficiencies for Officer Miller Mitchell – Tombstone Marshal's Office

J. Reports

The Board may receive updates on any of the following Report items; it may discuss or ask questions of the presenter on any of these items.

1. Department of Corrections
The Director or designee will report on the state of recruitment, retention and standards for correctional officers.
2. In-Service Training
Staff will report on ongoing training programs provided to law enforcement officers throughout the state.
3. Special Projects/Digital Media
Staff will report on ongoing special projects.
4. Arizona Women’s Initiative
Staff will report on the group’s activities.

K. Final Action Cases – Review, Discussion and Possible Action

Accept, Reject, or Modify the Findings of Fact and Conclusions of Law of the Administrative Law Judge decision and vote on appropriate disposition on the following case:

- | | | | |
|----|------------------|--------|----------------------------------|
| 1. | Acey Charley Jr. | 14-053 | Navajo Division of Public Safety |
|----|------------------|--------|----------------------------------|

Accept, Reject, or Modify proposed Consent Agreements on the following cases:

- | | | | |
|----|----------------------|--------|----------------------------------|
| 2. | Alexander J. Goodwin | 14-200 | ASU Police Department |
| 3. | Edward E. Gray | 15-060 | Tucson Police Department |
| 4. | Andrew P. Rodriguez | 15-101 | Tempe Police Department |
| 5. | Christopher M. Butts | 14-094 | Maricopa County Sheriff’s Office |
| 6. | Rusty Weathersby | 15-002 | Pinal County Sheriff’s Office |

L. New Cases – Review, Discussion and Possible Action

- | | | | |
|-----|--------------------|--------|-----------------------------------|
| 1. | Jeffrey L. Gilbert | 14-155 | Quartzsite Police Department |
| 2. | Frank J. Hoekstra | 15-141 | Paradise Valley Police Department |
| 3. | Richard J. McLane | 14-036 | Prescott Valley Police Department |
| 4. | Andrew H. Wikstrom | 15-124 | Pinal County Sheriff’s Office |
| 5. | Mike R. Annoual | 15-123 | Phoenix Police Department |
| 6. | Javier Arellano | 14-156 | San Luis Police Department |
| 7. | Davida L. Dyer | 13-193 | Yuma Police Department |
| 8. | Mario L. Leoni | 15-096 | Phoenix Police Department |
| 9. | Darius V. Potts | 15-122 | Phoenix Police Department |
| 10. | David E. Vasquez | 15-128 | Yuma County Sheriff’s Office |

- | | | | |
|-----|---------------------|--------|----------------------------------|
| 11. | Eric S. Whittington | 14-138 | Goodyear Police Department |
| 12. | Randall D. Nice | 15-048 | Pima County Sheriff's Department |
| 13. | Troy D. Stuck | 13-207 | Tohono O'odham Police Department |

M. Call to the Public

The Board has jurisdiction over standards, training and discipline of peace officers relating to their duties to enforce the laws of this state and the political subdivisions of this state. Members of the public are permitted to speak for no more than five minutes each on any matter that is within the Board's jurisdiction.

The Chair will limit the individual time allotment to three minutes if a number of people wish to address the Board. The Board may direct staff to study the matter or ask that the matter be placed on a future agenda. No discussion or action may take place on any matter not on the agenda.

N. Future Agenda Items

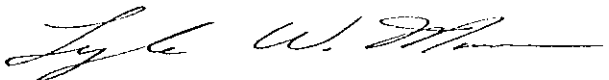
O. Adjourn

A copy of the agenda material provided to the Board members (with the exception of material relating to possible Executive Sessions) is available for public inspection, at least 24 hours prior to the meeting, at the Arizona Peace Officer Standards and Training Board office, 2643 East University Drive, Phoenix, AZ, phone (602) 774-9352.

Dated: November 4, 2015

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

By:



Lyle W. Mann, Executive Director

From: [Conrad, Donald](#)
To: [Rodriguez, Lisa](#)
Subject: FW: ACCENT Directive Harris Case
Date: Tuesday, December 08, 2015 8:31:43 AM
Attachments: [ACCENT Directive.pdf](#)

From: Formanek, Anne
Sent: Monday, December 07, 2015 11:01 AM
To: Dailey, Mike; Conrad, Donald
Cc: Layton, Richard; Garcia, Bobbie
Subject: FW: ACCENT Directive Harris Case

Here are the signed directives from the ACCENT Board for the Shaun Harris case.

Anne Formanek
Seized Property Manager
Office of the Arizona Attorney General
Financial Remedies Section
602-542-8483
Anne.Formanek@azag.gov

From: Stephenie Puzzi [<mailto:spuzzi@co.apache.az.us>]
Sent: Monday, December 07, 2015 10:30 AM
To: Formanek, Anne
Subject: ACCENT Directive Harris Case

Anne,

Attached is all the signed directives from the ACCENT Board. Please forward this onto Mike Dailey.

Thank you,

Stephenie Puzzi
ACCENT Coordinator
Apache County Sheriff's Office
370 S Washington
PO Box 518
St Johns, AZ 85936
Office: 928-337-7585
Fax: 928-337-3704

ACCENT DIRECTIVE

(Harris Matter)

Pursuant to the Apache County Cooperative Enforcement Narcotics Team ("ACCENT") By-Laws Current as of March 3rd, 2014, and any amendments or Resolutions thereto (collectively the "By-Laws"), ACCENT is comprised of five (5) Executive Board Members including the Apache County Attorney's Office ("ACAO"), the Apache County Sheriff's Office ("ACSO"), the Eager Police Department ("EPD"), the Springerville Police Department ("SPD"), and the St. Johns Police Department ("SJPD") (the "Member(s)").

ACCENT Members jointly investigated, furthered and otherwise participated in the civil asset forfeiture case prosecuted by the Arizona Attorney General's Office (CRM/FRS) ("AGO") titled *State v. Shaun Adam Harris*, CV2013-006406 (Maricopa County Superior Court), resulting in a Stipulated Judgment And Order Of Forfeiture In Rem filed April 21, 2015, forfeiting approximately \$211,363.52 and any interest accrued thereon (the "Proceeds").

Pursuant to the equitable sharing agreement set forth in the By-Laws, the joint efforts of the ACCENT Members, and applicable law, the Proceeds shall be equitably distributed and deposited by the AGO into Anti-Racketeering Revolving Fund ("ARRF") accounts maintained by the AGO or ACAO as follows:

- (a) eighteen percent (18%) to the AGO, deposited into the AGO (State) ARRF;
- (b) seven percent (7%) to the ACAO, deposited into the ACAO (State) ARRF maintained by the ACAO at National Bank; and,
- (c) seventy-five percent (75%) to ACCENT, deposited into the ACCENT (State) ARRF maintained by the ACAO at National Bank, to be made available to ACCENT Members through the mini-grant application and forfeited funds request process set forth in the By-Laws.

This Directive may be signed by authorized ACCENT Members in counterparts. A facsimile copy or photocopy of the signature of the authorized ACCENT representative shall have the same force and effect as an original signature.

The authorized signers for the Members shall provide a copy of their respective signature pages to: (a) the other ACCENT Members; and (b) Mike Dailey, Chief Counsel, Financial Remedies Section (Criminal Division) of the AGO at mike.dailey@azag.gov or via facsimile at 602-542-7975.

Apache County Attorney's Office

~~_____~~
Michael Whiting
County Attorney

Date: _____

11-10-15

Apache County Sheriff's Office

Joseph Dedman, Jr.
Sheriff

Date: _____

Eager Police Department

Patrick Michael (Mike) Hogan
Chief

Date: _____

Springerville Police Department

Mike Nuttal
Chief

Date: _____

St. Johns Police Department

Dan Brown
Chief

Date: _____

#4625337v2

ACCENT DIRECTIVE

(Harris Matter)

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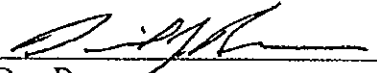
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St. Johns Police Department



Dan Brown
Chief

Date: 11/3/2015

#4625337v2

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(Harris Matter)

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The authorized signers for the Members shall provide a copy of their respective signature pages to: (a) the other ACCENT Members; and (b) Mike Dailey, Chief Counsel, Financial Remedies Section (Criminal Division) of the AGO at mike.dailey@azag.gov or via facsimile at 602-542-7975.

Apache County Attorney's Office

Michael Whiting
County Attorney

Date: _____

Apache County Sheriff's Office



Joseph Dedman, Jr.
Sheriff

Date: _____

Eager Police Department

Patrick Michael (Mike) Hogan
Chief

Date: _____

Springerville Police Department

Mike Nuttal
Chief

Date: _____

St. Johns Police Department

Dan Brown
Chief

Date: _____

#4625337v2

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(Harris Matter)

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Apache County Attorney's Office

Michael Whiting
County Attorney

Date: _____

Apache County Sheriff's Office

Joseph Dedman, Jr.
Sheriff


Date: _____

Eager Police Department

Patrick Michael (Mike) Hogan
Chief

Date: _____

Springerville Police Department


Mike Nuttal
Chief

Date: 10-29-2015

St. Johns Police Department

Dan Brown
Chief

Date. _____

#4625337v2

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(Harris Matter)

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Apache County Attorney's Office

Michael Whiting
County Attorney

Date: _____

Apache County Sheriff's Office

Joseph Dedman, Jr.
Sheriff

Date: _____

Eager Police Department

Patrick Michael (Mike) Hogan
Chief

Date: 10/27/2015

Michael Sweater
Interim Chief of Police

Springerville Police Department

Mike Nuttal
Chief

Date: _____

St. Johns Police Department

Date: _____

Dan Brown
Chief

#4625337v2

DRAFT

From: Conrad, Donald
To: Rodriguez, Lisa
Subject: FW: Activity in Case 2:07-cv-02513-GMS Melendres, et al. v. Arpaio, et al Evidentiary Hearing
Date: Thursday, October 15, 2015 9:51:44 AM

I want to read this

From: azddb_responses@azd.uscourts.gov [mailto:azddb_responses@azd.uscourts.gov]
Sent: Thursday, October 15, 2015 9:15 AM
To: azddb_nefs@azd.uscourts.gov
Subject: Activity in Case 2:07-cv-02513-GMS Melendres, et al. v. Arpaio, et al Evidentiary Hearing

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

DISTRICT OF ARIZONA

Notice of Electronic Filing

The following transaction was entered on 10/15/2015 at 9:15 AM MST and filed on 10/14/2015

Case Name: Melendres, et al. v. Arpaio, et al
Case Number: 2:07-cv-02513-GMS
Filer:
Document Number: 1470

Docket Text:

MINUTE ENTRY for proceedings held before Judge G. Murray Snow: Evidentiary Hearing (Day 14) held on 10/14/15. The Court anticipates hearing argument from counsel on the morning of Tuesday, 11/10/15 (this may change). Court stands in recess in this matter until 9:00 AM on Tuesday, 10/27/15. See minutes for details. (Court Reporter Gary Moll.) Hearing held 9:04 a.m. to 5:19 p.m. (NKS)

2:07-cv-02513-GMS Notice has been electronically mailed to:

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2:07-cv-02513-GMS Notice will be sent by other means to those listed below if they are affected by this filing:

Aggrieved and Irreparably Injured Class of United States and Phoenix Citizens(Terminated)
P.O. Box 2811
Phoenix, AZ 85002-2811

Scott Huminski(Terminated)
[REDACTED]
Gilbert, AZ 85295

The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:n/a
Electronic document Stamp:

[STAMP dcecfStamp_ID=1096393563 [Date=10/15/2015] [FileNumber=14094308
-0] [6794340b7b0b397f163df85b0bd221331d06944f1f8247cbfe1138605ef36205b
9842637078bf8bc25adc20ee414b4c45dd33daaa18a0bfea4620d2f662c4ae8]]

From: [Rodriguez, Lisa](#) on behalf of [Conrad, Donald](#)
To: [Rodriguez, Lisa](#)
Subject: FW: Additional Agenda Item for 10/21/15 POST Board Meeting
Date: Thursday, October 15, 2015 2:37:44 PM
Attachments: [October 21 Agenda.pdf](#)
[BC Rules Revision for October 21 Meeting.pdf](#)
[Rule Package for 10-21-15 Meeting.pdf](#)

From: Sandy Sierra [<mailto:sandys@azpost.gov>]
Sent: Thursday, October 15, 2015 2:26 PM
To: Alan Rodbell; Bill Pribil; Chris Andreacola; Cornel Stemley; Dave Brown; Conrad, Donald; Frank Milstead; Jeffrey Coker; Mike Olson
Cc: Hargraves, Seth; Leah Peller; Vickie Toll
Subject: Additional Agenda Item for 10/21/15 POST Board Meeting

Hello everyone,

Lyle added an agenda item for the meeting on Wednesday. This is a revision to the rule package that was approved at the Rule's Meeting on October 9th. The following items are included in this email:

1. Amended Agenda
2. Board Communication explaining the revision
3. The proposed rulemaking package with the proposed revisions from last week's meeting.

See you next week. I will have hard copies of all these items for you at the meeting.

Sandy Sierra

Arizona Peace Officer Standards and Training Board
602-774-9352
Work: Mon-Thu
0600-1600

From: [Conrad, Donald](#)
To: [Rodriguez, Lisa](#)
Subject: FW: Additional Agenda Item for 10/21/15 POST Board Meeting
Date: Friday, October 16, 2015 10:13:09 AM
Attachments: [October 21 Agenda.pdf](#)
[BC Rules Revision for October 21 Meeting.pdf](#)
[Rule Package for 10-21-15 Meeting.pdf](#)

For my meeting next week

From: Sandy Sierra [mailto:sandys@azpost.gov]
Sent: Thursday, October 15, 2015 2:26 PM
To: Alan Rodbell; Bill Pribil; Chris Andreacola; Cornel Stemley; Dave Brown; Conrad, Donald; Frank Milstead; Jeffrey Coker; Mike Olson
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Arizona Peace Officer Standards and Training Board

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514 Fax (602) 244-0477

Amended NOTICE OF PUBLIC MEETING AND AGENDA

Pursuant to the Americans with Disabilities Act (ADA), the Arizona Peace Officer Standards and Training Board endeavors to ensure the accessibility of its meetings to all persons with disabilities. Persons with a disability may request reasonable accommodation, such as a sign language interpreter, by contacting Sandy Sierra at (602) 774-9352. Requests should be made as early as possible to allow time to arrange the accommodation.

Notice is hereby given pursuant to A.R.S. §38-431.01, that the Arizona Peace Officer Standards and Training Board will hold a meeting open to the public at **10:00 a.m., Wednesday, October 21, 2015**, at its administrative building, located at 2643 East University Drive, Phoenix, Arizona. Notice is hereby given that the Board may vote to go into Executive Session pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with its attorney or attorneys regarding any item on this agenda. The chair may take items out of order.

- A. Call to Order
- B. Introductions, Presentations and Announcements
- C. Executive Director's Report
The Board may receive updates on any of the following Report items; it may discuss, provide direction or ask questions of the Executive Director on any of these items. The order of the Report is at the discretion of the Executive Director and the Chairman and may be revisited at any time during the meeting.
 1. Special Initiatives
 - a. Blue Courage
 - b. President's Task Force on 21st Century Policing
 - c. Below 100
 2. Identification of AZ POST Administrative Rules, A.A.C. R13-4-101 *et seq.*, the Board may consider revising. Update on any pending, future Board actions, or application of current administrative rules.
 3. Board Communications with law enforcement associations, groups and agencies.
 4. Board personnel and staffing.
- D. Accept, Reject or Modify the Revision to the Rule Promulgation Package approved on October 9, 2015

E. Final Action Cases – Review, Discussion and Possible Action

Accept, Reject, or Modify the Findings of Fact and Conclusions of Law of the Administrative Law Judge decision and vote on appropriate disposition on the following case:

- 1. Ralph R. Woods 14-049 Phoenix Police Department

Accept, Reject, or Modify proposed Consent Agreements on the following cases:

- 2. Brian D. Godbehere 15-071 Phoenix Police Department
- 3. Joshua M. Ray 14-072 Maricopa County Sheriff's Office
- 4. Jesse A. Rich 14-034 Tucson Police Department

Accept, Reject, or Modify the Findings of Fact and Conclusions of Law and vote on appropriate disposition on the following case:

- 5. Jeremy J. Duvall 15-059 Bullhead City Police Department

F. New Cases – Review, Discussion and Possible Action


- 1. Daren Roberts 14-152 Navajo Division of Public Safety
- 2. Danny C. Wilde 15-028 Graham County Sheriff's Office
- 3. Cody M. Howard 15-095 Glendale Police Department
- 4. Leonard Jimenez Jr. 13-211 Maricopa Community College District
- 5. Matthew S. Mitchell 14-012 Prescott Valley Police Department
- 6. Cisco J. Perez 13-203 Maricopa County Sheriff's Office
- 7. Timothy L. Arndt 15-094 Phoenix Police Department
- 8. Michael B. Cadriel 15-019 Cocopah Tribal Police Department
- 9. Jesse J. Dean 15-077 Mohave County Sheriff's Office
- 10. Gena L. Founds 15-056 Tolleson Police Department
- 11. David E. Hough 15-081 Phoenix Police Department

G. Future Agenda Items

H. Adjourn

Dated: October 15, 2015

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

By: 

 Lyle W. Mann, Executive Director

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

BOARD COMMUNICATION

Meeting Date: October 21, 2015

Agenda Item: D

TOPIC: Revision to Rule Promulgation Package Approved October 9, 2015

STAFF ASSIGNED TO ADDRESS ISSUE: Lyle Mann

SUMMARY:

At the Board meeting on October 9, 2015, a complete Rules Package was approved. During that meeting, one of the points of discussion was a new rule which required officers to tell POST if they were convicted or pled guilty to any crime.

This was a significant change in that it would be the first time the Board required an individual to contact the Board directly. All current interactions begin with the agency contacting the Board.

During the discussion, there was clear support for requiring the agencies to report any convictions that they became aware of and there was an acknowledgement that placing the requirement on the officer was a difficult path for us to take.

Following the meeting, a review of the Board's enabling statutes revealed that there is a provision concerning adherence to your standards by agencies and through that language the Board can require that agencies report any time they become aware of a conviction of any of their officers. Therefore, the following modification to the Rule Package is recommended.

R13-4-108. Agency Records and Reports

- A. Agency reports. On forms prescribed by the Board, an agency shall submit:
1. A report by the agency head attesting that the requirements of R13-4-105 are met for each ~~person~~ individual appointed. The report shall be submitted to the Board before a ~~person~~ an individual attends an academy or performs the duties of a peace officer.
 2. A report of the termination of a peace officer. The report shall be submitted to the Board within 15 days of the termination and include:
 - a. The nature of the termination and effective date;
 - b. A detailed description of any termination for cause; and
 - c. A detailed description of, and supporting documentation for, any cause existing for suspension or revocation of certified status.
 3. A report that a peace officer was convicted of or pleaded no contest to a misdemeanor or felony in any jurisdiction. The report shall be submitted to the Board within 10 days after the agency knows of the conviction or plea and include court documentation, if available.

This avoids the issues of providing notice to all officers, and limits the notice to just agencies. This change may alleviate one of the objections that might have been brought up at the Public Comment session, which was that we might not have clear authority to require the individual officer to contact the Board directly.

If the individual is still appointed, then the agency tells the Board but if the person is inactive then the required background investigation for reactivation will reveal the conviction. If the officer never told the agency, but the agency had a policy requiring such notice then the officer can be held accountable for "mal, mis or nonfeasance". Plus we would still have the action that resulted in the criminal conviction.

The statute additionally states that if an agency doesn't comply with the Board's standards then the Board is advised "for action deemed appropriate by that body". It is the same agency compliance authority that we have always had, but it has have never been invoked.

There is nothing in this new rule which requires the Board to take action.

RECOMMENDATION: Staff recommends that this last rule modification be approved.

SUGGESTED MOTION: I move that the change to R13-4-108 A.3 be appropriately incorporated into the Rules Package approved on October 9, 2015.

NOTICE OF PROPOSED RULEMAKING
TITLE 13. PUBLIC SAFETY
CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

PREAMBLE

1. Articles, Parts, and Sections Affected

Rulemaking Action

R13-4-101	Amend
R13-4-102	Amend
R13-4-103	Amend
R13-4-104	Amend
R13-4-105	Amend
R13-4-106	Amend
R13-4-107	Amend
R13-4-108	Amend
R13-4-109	Amend
R13-4-109.01	Amend
R13-4-110	Amend
R13-4-111	Amend
R13-4-112	Amend
R13-4-114	Amend
R13-4-116	Amend
R13-4-117	Amend
R13-4-118	Amend
R13-4-201	Amend
R13-4-202	Amend
R13-4-203	Amend
R13-4-204	Amend
R13-4-205	Amend
R13-4-206	Amend
R13-4-208	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 41-1822 (A) and (B)

Implementing statute: A.R.S. § 41-1822(A)(3)-(A)(4) ; (B)(1)-(B)(3) ; and (C)(1)

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: XX A.A.R. XX

4. The agency's contact person who can answer questions about the rulemaking:

Name: Lyle Mann, Executive Director

Address: 2643 E. University
Phoenix, AZ 85034

Telephone: (602) 223-2514

Fax: (602) 244-0477

E-mail: lmann@azpost.gov

Web site: www.azpost.state.az.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In response to a five-year-review report approved by the Council on June 7, 2011, and statutory changes (See Laws 2011, Chapter 303), the Board is updating its rules to make them consistent with statute, agency practice, and current rule-writing standards.

An exemption from Executive Order 2015-01 was provided to the Department by Ted Vogt, Chief of Operations in the Governor's office, in an e-mail dated July 29, 2015

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Board believes the following changes made in this rulemaking will have minimal economic impact:

- Clarifying the difference between an individual who is appointed to an academy and one who attends an academy as an open enrollee;
- Clarifying that an outside provider of training may provide only continuing training;
- Deleting reference to a limited correctional peace officer;

- Simplifying the medical assessment of whether an individual is able to perform the essential functions of the job of peace officer;
- Adding three grounds for denial, suspension, or revocation of certification;
- Adding that certification as a specialty or limited-authority peace officer requires passing relevant portions of the comprehensive final examination;
- Adding a report regarding criminal convictions or pleas by peace officers; and
- Deleting salary as a reimbursable training expense.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Lyle Mann, Executive Director

Address: 2643 E. University
Phoenix, AZ 85034

Telephone: (602) 223-2514

Fax: (602) 244-0477

E-mail: lmann@azpost.gov

Web site: www.azpost.state.az.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date:

Time:

Location:

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

A.R.S. § 41-1823 requires that a rule establishing a minimum qualification for law enforcement officers not be effective until six months after being filed with the Secretary of State. This provision applies to R13-4-103, R13-4-105, R13-4-107, R13-4-110, and R13-4-111.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Board certifies individuals as qualified to perform the functions of a peace officer. This is a general permit because the activities and practices of peace officers are substantially similar in nature.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

No federal law is directly applicable to the subject of these rules. There are many federal laws that apply to law enforcement agencies and the work done by peace officers. These include general laws such as OSHA, EEOC, and ADA, federal laws regarding crimes, and federal case law regarding law enforcement. The training provided to peace officers is consistent with federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

ARTICLE 1. GENERAL PROVISIONS

- R13-4-101. Definitions
- R13-4-102. Internal Organization and Control of the Board
- R13-4-103. Certification of Peace Officers
- R13-4-104. Peace Officer Category Restrictions
- R13-4-105. Minimum Qualifications for Appointment
- R13-4-106. Background Investigation Requirements
- R13-4-107. Medical Requirements
- R13-4-108. Agency Records and Reports
- R13-4-109. Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status
- R13-4-109.01. Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies
- R13-4-110. Basic Training Requirements
- R13-4-111. Certification Retention Requirements
- R13-4-112. ~~Time frames~~ Time Frames
- R13-4-114. Minimum Course Requirements
- R13-4-116. Academy Requirements
- R13-4-117. Training Expense Reimbursements
- R13-4-118. Hearings; Rehearings

ARTICLE 2. CORRECTIONAL OFFICERS

- R13-4-201. Definitions
- R13-4-202. Uniform Minimum Standards
- R13-4-203. Background Investigation
- R13-4-204. Records and Reports
- R13-4-205. Basic Training Requirements
- R13-4-206. Field Training and Continuing Training Including Firearms Qualification
- R13-4-208. Re-employment of State Correctional Officers

ARTICLE 1. GENERAL PROVISIONS

R13-4-101. Definitions

In this Article, unless the context otherwise requires:

“Academy” means an entity that conducts the Board-prescribed basic training courses for full-authority, specialty, or limited-authority peace officers.

“Agency” means a law enforcement entity empowered by the state of Arizona.

“Appointment” means the selection by an agency of a person an individual to be a peace officer or peace officer trainee.

“Approved training program” means a course of instruction that meets Board-prescribed course requirements.

“Board” means the Arizona Peace Officer Standards and Training Board.

“Board-trained physician” means an occupational medicine specialist or a physician who has attended a Board course on peace officer job functions.

“Cancellation” means the annulment of certified status without prejudice to reapply for certification.

“Certified” means approved by the Board as being in compliance with A.R.S. Title 41, Chapter 12, Article 8 and this Chapter.

“CFE” means the Board-approved Comprehensive Final Examination that measures mastery of the knowledge and skills taught in the 585-hour full-authority peace officer basic training course.

“Denial” means the permanent refusal of the Board to grant certified status.

“Dangerous drug or narcotic” means a substance identified in A.R.S. § 13-3401 as being a dangerous drug or narcotic drug.

“Experimentation” means the illegal possession or use of marijuana or a dangerous drug or narcotic as described in R13-4-105(B) and (C).

“Full-authority peace officer” means a peace officer whose authority to enforce the laws of this state is not limited by this Chapter.

“Illegal” means in violation of federal or state statute, rule, or regulation.

“Lapse” means the expiration of certified status.

“Limited-authority peace officer” means a peace officer who is certified to perform the duties of a peace officer only in the presence and under the supervision of a full-authority peace officer.

~~“Limited correctional peace officer” means a peace officer who has authority to perform the duties of a peace officer only while employed by and on duty with the Arizona Department of Corrections, and only for the~~

~~purposes of guarding, transporting, or pursuing persons under the jurisdiction of the Arizona Department of Corrections.~~

“Open enrollee” means an individual who is admitted to an academy but is not appointed by an agency.

“Outside provider” means an entity other than the Board or an agency that makes continuing training available to peace officers.

“Peace officer” has the meaning in A.R.S. § 1-215.

“Peace officer trainee” means ~~a person~~ an individual recruited and appointed by an agency to attend an academy.

“Physician” means ~~a person~~ an individual licensed to practice allopathic or osteopathic medicine in this or another state.

“Restriction” means the Board’s limitation on duties allowed to be performed by a certified peace officer.

“Revocation” means the permanent withdrawal of certified status.

“Service ammunition” means munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by a peace officer.

“Service handgun” means the specific handgun or equivalent that a peace officer carries for use on duty.

“Specialty peace officer” means a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency’s statutory powers and duties.

“Success criteria” means a numerical statement that establishes the performance needed for ~~a person~~ an individual to demonstrate competency in a knowledge, task, or ability required by this Chapter.

“Suspension” means the temporary withdrawal of certified status.

“Termination” means the end of employment or service with an agency as a peace officer through removal, discharge, resignation, retirement, or otherwise.

13-4-102. Internal Organization and Control of the Board

A. Scheduled meetings. The Chair, in consultation with the Board, shall set regular meeting dates of the Board and shall ~~post notice of each regular meeting according to A.R.S. § 38-431.02.~~

~~**B.** Meeting agenda. Items to be placed on the agenda for Board consideration shall be submitted no later than 20 days before the scheduled meeting.~~

~~**C.B.** Special meetings. Except in the case of an emergency meeting declared by the Governor or the Chair, the Chair shall give at least five days’ written notice of a special meeting to each member of the Board and shall post notice of the special meeting according to A.R.S. § 38-431.02.~~

~~D.C.~~ Subcommittees. The Chair may appoint subcommittees to inquire into any matter of Board interest. Each subcommittee shall report its findings, conclusions, and recommendations to the Board, in a manner directed by the Chair.

R13-4-103. Certification of Peace Officers

- A. Certified status mandatory. ~~A person~~ An individual who is not certified by the Board or whose certified status is inactive shall not function as a peace officer or be assigned the duties of a peace officer by an agency, except as provided in subsection (B).
- B. Sheriffs who are elected are exempt from the requirement of certified status.
- C. ~~A person~~ An individual shall satisfy the minimum qualifications and training requirements to receive certified status.
- D. Peace officer categories. The categories for which certified status may be granted are:
1. Full-authority peace officer,
 2. Specialty peace officer, and
 3. Limited-authority peace officer, and
 4. ~~Limited correctional peace officer.~~
- E. Application for certification. ~~A person~~ An individual who seeks to be certified as a peace officer shall make application as follows:
1. Submit to an agency an application that contains all documents required by R13-4-105, R13-4-106(A) and (B), and R13-4-107;
 2. Obtain an appointment from ~~an~~ the agency; and
 3. Obtain either a certificate of graduation from a Board-prescribed Peace Officer Basic Course or a certificate of successful completion of the waiver of training process prescribed by R13-4-110(D).
- F. An open enrollee shall obtain an appointment from an agency within one year after graduating from a Board-prescribed Peace Officer Basic Course.
1. If more than one year but less than three years elapse after graduation from a Board-prescribed Peace Officer Basic Course before an open enrollee obtains an appointment from an agency, the open enrollee shall again take the CFE required under R13-4-110 and satisfactorily perform the practical demonstrations of proficiency in physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).
 2. If more than three years elapse after graduation from a Board-prescribed Peace Officer Basic Course, an open enrollee shall again take the Board-prescribed Peace Officer Basic Course before obtaining an appointment from an agency.
- ~~F.G.~~ Establishment Establishing or ~~enforcement~~ enforcing qualifications, standards, or training requirements. The Board may waive in whole or in part any provision of this Article upon a finding that the

best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized by the waiver. The Board may place restrictions or requirements on a peace officer as a condition of certified status.

~~G.H.~~ This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-104. Peace Officer Category Restrictions

A. Limited-authority peace officer.

1. A limited-authority peace officer shall be in the presence and under the supervision of a full-authority peace officer when engaged in patrol or investigative activities performed to detect, prevent, or suppress crime, or to enforce criminal or traffic laws of the state, county, or municipality.
2. A limited-authority peace officer may perform the following duties without supervision of a full-authority peace officer:
 - a. ~~Directing traffic, or assisting with crowd control; or~~
 - b. Assisting with crowd control; or
 - ~~b.c.~~ Maintaining public order in the event of riot, insurrection, or disaster.

B. ~~Limited correctional peace officer. A limited correctional peace officer shall not engage in high speed vehicular pursuit operations.~~ Specialty peace officer. A specialty peace officer has only the authority specified in R13-4-101.

C. Peace officer category change. A certified peace officer may be appointed to another peace officer category within the same agency without the background investigation, ~~fingerprint check~~, and medical examination required in R13-4-105, R13-4-106, and R13-4-107 when these requirements were previously satisfied for appointment if:

1. No more than 30 days have elapsed since the peace officer's termination, and
2. The change is to a category for which the officer is qualified under R13-4-110(A).

D. Inactive status. Certified status of a peace officer becomes inactive upon termination.

E. Lapse of certified status. ~~Certified status of a peace officer lapses after~~ After three consecutive years on inactive status, ~~the certified status of a peace officer lapses.~~

F. Reinstatement from inactive status. A peace officer whose certified status is inactive and has not lapsed may have certification reinstated if the requirements of R13-4-105 are met for the new appointment, and if appointed:

1. In the same peace officer category, or;
2. As a specialty peace officer from inactive status as a full-authority peace officer.

G. Active status as a specialty; or limited-authority; ~~or limited correctional~~ peace officer does not prevent lapse of certified status as a full-authority peace officer.

R13-4-105. Minimum Qualifications for Appointment

- A. Except as provided in subsection (C) or (D), ~~a person~~ an individual shall meet the following minimum qualifications before being appointed to or attending an academy:
1. Be a United States citizen;
 2. Be at least 21 years of age; ~~except that a person.~~ An individual may attend an academy if the ~~person~~ individual will be 21 years of age before graduating;
 3. ~~Be~~ Have a diploma from a high school graduate recognized by the department of education of the jurisdiction in which the diploma is issued, or have successfully completed a General Education Development (G.E.D.) examination, or have a degree from an institution of higher education accredited by an agency recognized by the U.S. Department of Education;
 4. Undergo a complete background investigation that meets the standards of R13-4-106. ~~A person~~ An individual may begin an academy before the results of the ~~fingerprint check~~ background investigation are returned. However, the academy shall not graduate the ~~person~~ individual and the Board shall not reimburse the academy for the ~~person's~~ individual's training expenses until a qualifying ~~fingerprint check background investigation report return~~ is obtained;
 5. Undergo a medical examination that meets the standards of R13-4-107 within one year before appointment. An agency may make a conditional offer of appointment before the medical examination. If the medical examination is conducted more than 180 days before appointment, the ~~person~~ individual shall submit a written statement indicating that the ~~person's~~ individual's medical condition has not changed since the examination;
 6. Not have been convicted of a felony or any offense that would be a felony if committed in Arizona;
 7. Not have been dishonorably discharged from the United States Armed Forces;
 8. Not have been previously denied certified status, have certified status revoked, or have current certified status suspended, or have voluntarily surrendered certified status in lieu of possible disciplinary action in this or any other state if the reason for denial, revocation, suspension, or possible disciplinary action was or would be a violation of R13-4-109(A) if committed in Arizona;
 9. Not have illegally possessed, sold, produced, cultivated, or transported for sale marijuana;
 10. Not have illegally possessed or used marijuana for any purpose within the past three years;
 11. Not have ever illegally possessed or used marijuana other than for experimentation;
 12. Not have ever illegally possessed or used marijuana while employed or appointed as a peace officer;
 13. Not have illegally sold, produced, cultivated, or transported for sale a dangerous drug or narcotic;
 14. Not have illegally used a dangerous drug or narcotic, other than marijuana, for any purpose within the past seven years;
 15. Not have ever illegally used a dangerous drug or narcotic other than for experimentation;

16. Not have ever illegally used a dangerous drug or narcotic while employed or appointed as a peace officer;
 17. Not have a pattern of abuse of prescription medication;
 18. Undergo a polygraph examination that meets the requirements of R13-4-106, unless prohibited by law;
 19. Not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with a frequency within the past three years that indicates a disrespect for traffic laws or a disregard for the safety of other persons on the highway;
 20. Read the code of ethics in subsection ~~(F)~~ (E) and affirm by signature the ~~person's~~ individual understanding of understands and ~~agreement~~ agrees to abide by the code.
- B. The illegal possession or use of marijuana, or a dangerous drug or narcotic is presumed to be not for experimentation if:
1. The possession or use of marijuana exceeds a total of 20 times or exceeds five times since the age of 21 years; or
 2. The use of any dangerous drug or narcotic, other than marijuana, in any combination exceeds a total of five times, or exceeds one time since the age of 21 years.
- C. An agency head who wishes to appoint ~~a person~~ an individual whose illegal possession or use of marijuana or a dangerous drug or narcotic is presumed to be not for experimentation under this Section may petition the Board for a determination that, given the unique circumstances of the ~~person's~~ individual's possession or use, the use was for experimentation. The petition shall:
1. Specify the type of drugs illegally possessed or used, the number of uses, the age at the time of each possession or use, the method by which the information regarding illegal possession or use of drugs came to the agency's attention, and any attempt by the agency head to verify the accuracy of the information; and
 2. State the factors the agency head wishes the Board to consider in making its determination. These factors may include:
 - a. The duration of use,
 - b. The motivation for possession or use,
 - c. The time elapsed since the last possession or use,
 - d. How the drug was obtained,
 - e. How the drug was ingested,
 - f. Why the ~~person~~ individual stopped possessing or using the drug, and
 - g. Any other factor the agency head believes is relevant to the Board's determination.
- D. An agency head who wishes to appoint ~~a person~~ an individual whose conduct is grounds to deny certification under R13-4-109 may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion. The petition shall:

1. Specify the nature of the conduct, the number of times the conduct occurred, the method by which information regarding the conduct came to the agency's attention, and any attempt by the agency head to verify the accuracy of the information; and
2. Include sufficient information for the Board to determine that all of the following are true:
 - a. The conduct occurred when the person individual was less than age 18;
 - b. The conduct occurred more than 10 years before application for appointment;
 - c. The person individual has consistently exhibited responsible, law-abiding behavior between the time of the conduct and application for appointment;
 - d. There is reason to believe that the person's individual's immaturity at the time of the conduct contributed substantially to the conduct;
 - e. There is evidence that the person's individual's maturity at the time of application makes reoccurrence of the conduct unlikely; and
 - f. The conduct was not so egregious that public trust in the law enforcement profession would be jeopardized if the person individual is certified.
3. If the Board finds that the information submitted is sufficient for the Board to determine that the factors listed in subsection (D)(2) are true, the Board shall determine that the conduct constituted juvenile indiscretion and grant appointment.

~~E.~~ For a limited correctional peace officer, previous completion of a background investigation conducted under R13-4-203 and a physical examination conducted under R13-4-202(A)(6) satisfies the requirements of this Section when there has been no interruption of employment by the agency, except that:

- ~~1.~~ The limited correctional peace officer shall submit to a polygraph examination as required by subsection (A)(18); and
- ~~2.~~ The agency shall query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH) and review the returns to determine that the person meets the requirements of this Section.

~~F.~~E. Code of Ethics. Because the people of the state of Arizona confer upon all peace officers the authority and responsibility to safeguard lives and property within constitutional parameters, a peace officer shall commit to the following Code of Ethics and shall affirm the peace officer's commitment by signing the Code.

"I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and loyal to the state of Arizona and my agency and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty.

I will never take selfish advantage of my position and will not allow my personal feelings, animosities, or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, and without favor, malice, ill will, or compromise. I am a servant

of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Arizona.”

G.F. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-106. Background Investigation Requirements

- A.** Personal history statement. ~~A person~~ An individual who seeks to be appointed shall complete and submit to the appointing agency a personal history statement on a form prescribed by the Board before the start of a background investigation. ~~The Board shall use the history statement shall contain~~ answers to questions ~~contained in the personal history statement that aid in determining to determine~~ whether the ~~person~~ individual is eligible for certified status as a peace officer. ~~The Board shall ensure that the~~ questions ~~shall~~ concern whether the ~~person~~ individual meets the minimum requirements for appointment, has engaged in conduct or a pattern of conduct that would jeopardize the public trust in the law enforcement profession, and is of good moral character.
- B.** Investigative requirements for the applicant. To assist with the background investigation, ~~a person~~ an individual who seeks to be appointed shall provide the following:
1. Proof of United States citizenship. A copy of a birth certificate, United States passport, or United States naturalization papers is acceptable proof.
 2. Proof of education. A copy of a diploma, certificate, or transcript is acceptable proof.
 3. Record of any military discharge. A copy of the Military Service Record (DD Form 214, Member 4) is acceptable proof.
 4. Personal references. The names and addresses of at least three people who can provide information as personal references.
 5. Previous employers or schools attended. The names and addresses of all employers and schools attended within the previous five years.
 6. Residence history. ~~A listing of the~~ The complete address for every location ~~that at which~~ the ~~person~~ individual has lived in the last five years.
- C.** Investigative requirements for the agency. A complete background investigation includes the following inquiries and a review of the returns to determine that the ~~person~~ individual seeking appointment meets the requirements of R13-4-105, and that the ~~person's~~ individual's personal history statement is accurate and truthful. For each ~~person~~ individual seeking to be appointed, the appointing agency shall:
1. Query all the law enforcement agency records in jurisdictions listed in subsections (B)(5) and (B)(6);
 2. Query the motor vehicle division driving record from any state listed in subsections (B)(5) and (B)(6);
 3. Complete and submit a Fingerprint Card Inventory Sheet to the Federal Bureau of Investigation and Arizona Department of Public Safety for query;

4. Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state listed in subsections (B)(5) and (B)(6);
5. Contact all personal references and employers listed in subsections (B)(4) and (B)(5) and document the answers to inquiries concerning whether the ~~person~~ individual meets the standards of this Section;
6. Administer a polygraph examination, unless prohibited by law. The results shall include a detailed report of the pre-test interview and any post-test interview and shall cover responses to all questions that concern minimum standards for appointment as required by R13-4-105, truthfulness on the personal history statement, and the commission of any crimes; and
7. If the results of the background investigation show that the ~~person~~ individual meets minimum qualifications for appointment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character, complete a report that attests to those findings.

R13-4-107. Medical Requirements

A. Medical, Categories. ~~The medical categories for certification are: physical, and mental eligibility for certification.~~

1. ~~Category I. No medical, physical, or mental circumstance exists that limits the person's ability to effectively perform all the duties of a peace officer or creates a reasonable probability of substantial harm to the person or others; An agency may appoint an individual if the individual meets the minimum qualifications in R13-4-105 and is able to perform all the essential functions of the job of peace officer effectively, with or without reasonable accommodation, without creating a reasonable probability of substantial harm to the individual or others.~~
2. ~~Category II. A medical, physical, or mental circumstance exists that absent a reasonable accommodation by the appointing agency would limit the person's ability to effectively perform all the duties of a peace officer or create a reasonable probability of substantial harm to the person or others; and If an agency wishes to appoint an individual who is unable to perform all the essential functions of the job of peace officer effectively, the agency may seek a restricted certification for the individual. The Board shall determine whether placing restrictions or requirements on the individual as a condition of certification will enable the individual to perform the essential functions authorized within the restriction without creating a reasonable probability of harm to the individual or others.~~
3. ~~Category III. A medical, physical, or mental circumstance exists that despite reasonable accommodation by the appointing agency limits the person's ability to effectively perform all the duties of a peace officer or creates a reasonable probability of substantial harm to the person or others.~~

B. Eligibility for certified status Medical examination process.

1. ~~Category I. A person in Category I may be appointed if the person meets all other qualifications. Medical history. An individual applying to be appointed shall provide to the examining, board-trained, physician a written statement of the individual's medical history that includes past and present diseases, illnesses, symptoms, conditions, injuries, functionality, surgeries, procedures, immunizations, medications, and psychological information.~~
2. ~~Category II. If an agency chooses to make the required accommodation and appoint a person in Category II, and the examination was made by a Board-trained physician, the appointment may be made without further action by the Board. However, if the examining physician has not been trained by the Board, a medical review under subsection (H) by a Board-trained physician is required to determine eligibility for certified status. If the Board-trained physician agrees with the finding of the other physician, the appointment may be made without further action by the Board. Medical examination.~~
 - a. The examining, board-trained, physician shall not delegate any part of the medical examination process to another person;
 - b. The examining, board-trained, physician shall review the medical history statement and take an additional verbal history from the applicant;
 - c. The examining, board-trained, physician shall conduct a physical examination consistent with the standard of care for occupational medical examinations;
 - d. The examining, board-trained, physician shall order tests, obtain medical records, and require specialist or functional examinations and evaluations that the examining physician deems necessary to determine the applicant's ability to perform all the essential functions of the job of peace officer;
 - e. The examining, board-trained, physician shall make a report to the agency and provide a:
 - i. Summary of the examination;
 - ii. Description of any significant medical findings;
 - iii. Description of any limitation to the ability to perform the essential functions of the job of a peace officer; and
 - iv. Medical opinion about the applicant's ability to perform the essential functions of the job of peace officer, with or without reasonable accommodations; and
 - f. The examining, board-trained, physician shall consult with the agency, upon request, about the report and the efficacy of any accommodations the agency deems reasonable.
3. ~~Category III. If an agency wishes to appoint a person in Category III, the agency shall submit a letter to the Board asking for a determination of eligibility for certification. The letter shall include a report from a Board-trained physician identifying the medical limitations and the proposed accommodations. The Board shall determine the person's eligibility for certified status, based upon whether the appointing agency is able to make reasonable accommodations, and whether by placing restrictions or requirements on the~~

~~person as a condition of certified status under R13-4-103(F), the person is able to perform the duties authorized within the restriction without endangering the person or others.~~

~~C. Medical, physical, or mental circumstances in Category II and Category III include:~~

- ~~1. Angina pectoris;~~
 - ~~2. Asthma;~~
 - ~~3. Cancer—metastatic or leukemia;~~
 - ~~4. Cardiac arrhythmias or murmurs;~~
 - ~~5. Cerebral vascular accident;~~
 - ~~6. Chest pains of unknown origin;~~
 - ~~7. Contagious hepatitis;~~
 - ~~8. Contagious tuberculosis;~~
 - ~~9. Chronic respiratory disease;~~
 - ~~10. Diabetes, insulin dependent or ketosis-prone;~~
 - ~~11. Fixation of major joint;~~
 - ~~12. Hearing not specified in subsection (D);~~
 - ~~13. Herniated lumbar disc;~~
 - ~~14. Hypertension, uncontrolled;~~
 - ~~15. Inguinal hernia;~~
 - ~~16. Liver or renal dysfunction;~~
 - ~~17. Migraine headache;~~
 - ~~18. Myocardial infarction, history of;~~
 - ~~19. Paralysis;~~
 - ~~20. Pilonidal cyst;~~
 - ~~21. Prosthetic device, e.g., limbs, hearing aid, colostomy;~~
 - ~~22. Recurrent dislocation of a major joint;~~
 - ~~23. Schizophrenia or manic depressive psychosis;~~
 - ~~24. Scoliosis greater than 15 degrees;~~
 - ~~25. Seizure disorders;~~
 - ~~26. Current substance abuse;~~
 - ~~27. Valvular heart disease, uncorrected;~~
 - ~~28. Vision not specified in subsection (D) or monocular vision;~~
 - ~~29. Wasting disease, chronic, such as multiple sclerosis, myasthenia gravis, or amyotrophic lateral sclerosis;~~
- ~~and~~

- ~~30. Any other medical, physical, or mental circumstance that the examining physician determines may interfere with the person's ability to function as a peace officer effectively or may create a reasonable probability of substantial harm to the person or others.~~
- ~~D. Vision and hearing. Vision and hearing meeting the following requirements are classified in Category I:~~
- ~~1. Visual acuity of:
 - ~~a. 20/20 or better uncorrected;~~
 - ~~b. 20/20 or better, corrected by spectacles or hard contact lenses, if uncorrected acuity is 20/80 or better. The applicant shall demonstrate satisfactory adaptation to the contact lenses; or~~
 - ~~c. 20/20 or better, corrected by soft contact lenses, if the uncorrected acuity is 20/200 or better. The applicant shall demonstrate satisfactory adaptation to the contact lenses;~~~~
 - ~~2. Vision capable of distinguishing basic color groups against a favorable background.~~
 - ~~3. Peripheral vision:
 - ~~a. That does not reveal scotoma or quadrantonopia; or~~
 - ~~b. In which vision perimeter testing is intact at 170 degrees; and~~~~
 - ~~4. Uncorrected hearing with no loss greater than 25 db in the 500, 1000, 2000, or 3000 hertz frequencies as measured by an audiometer.~~
- ~~E. Medical history. A person who seeks to be appointed shall supply to the examining physician a statement of the person's medical history that includes past and present diseases, injuries, operations, immunization status, and medications taken.~~
- ~~F. Medical examination. The examining physician shall review the person's medical history and examine the person.~~
- ~~G. Examination report. The examining physician shall record the findings of the medical examination on a form prescribed by the Board. The physician shall indicate whether a medical, physical, or mental circumstance in Category II or III exists, describe how the circumstance affects the person's ability to perform the duties of a peace officer, and specify the type and duration of any treatment required. In all Category II or III cases, the physician shall advise the appointing agency in writing of any limitation on the person's ability to function as a peace officer.~~
- ~~H. Category II and Category III reviews. The diagnosis of a person with a circumstance classified in Category II or Category III by an examining physician who is not Board trained shall be reviewed by a Board trained physician if the agency intends to appoint the person. The Board trained physician may review prior medical examination reports concerning the person and contact examining physicians to review their findings. If required by the Board trained physician, an independent medical examination shall be conducted, if the agency wishes to appoint the person, and the person shall be referred to a specialist in the appropriate medical field.~~

~~I. Additional findings. The appointing agency may submit to the Board results of additional examinations or tests, or obtain additional opinions from other licensed physicians.~~

~~J.C.~~ This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-108. Agency Records and Reports

A. Agency reports. On forms prescribed by the Board, an agency shall submit:

1. A report by the agency head attesting that the requirements of R13-4-105 are met for each ~~person~~ individual appointed. The report shall be submitted to the Board before a ~~person~~ an individual attends an academy or performs the duties of a peace officer.
2. A report of the termination of a peace officer. The report shall be submitted to the Board within 15 days of the termination and include:
 - a. The nature of the termination and effective date;
 - b. A detailed description of any termination for cause; and
 - c. A detailed description of, and supporting documentation for, any cause existing for suspension or revocation of certified status.
3. A report that a peace officer was convicted of or pleaded no contest to a misdemeanor or felony in any jurisdiction. The report shall be submitted to the Board within 10 days after the agency knows of the conviction or plea and include court documentation, if available.

B. Agency records. An agency shall make its records available ~~upon the~~ on request ~~of by~~ the Board or staff. The agency shall maintain the following for each ~~person~~ individual for whom certification is sought:

1. An application file that contains all of the information required in R13-4-103(E) and R13-4-106(C) for each ~~person~~ individual appointed for certification as a peace officer;
2. A copy of reports submitted under subsection (A);
3. A signed copy of the affirmation to the Code of Ethics required under R13-4-105;
4. A written report of the results of a completed or partially completed background investigation and all written documentation obtained or recorded under R13-4-106;
5. A completed medical report required under ~~R13-4-105~~ R13-4-107; and
6. A record of all continuing training, proficiency training, and firearms qualifications conducted under R13-4-111.

C. Record retention. An agency shall maintain the records required by this Section as follows:

1. For applicants investigated under R13-4-106 who are not appointed: three years;
2. For applicants who are appointed: five years from the date of termination, except records retained under subsection (B)(6) shall be retained for three years following completion of training; and

3. Reports of a polygraph examination given under R13-4-106(C)(6) shall be maintained in accordance with state law.

R13-4-109. Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status

- A. Causes for denial, suspension, or revocation. The Board may deny certified status or suspend or revoke the certified status of a peace officer for:
1. ~~Failure~~ Failing to satisfy a minimum qualification for appointment listed in R13-4-105;
 2. Willfully providing false information in connection with obtaining or reactivating certified status;
 3. A Having a medical, physical, or mental disability that substantially limits the ~~person's~~ individual's ability to perform the duties of a peace officer effectively, or that may create a reasonable probability of substantial harm to the ~~person~~ individual or others, for which a reasonable accommodation cannot be made;
 4. ~~Violation of~~ Violating a restriction or requirement for certified status imposed under R13-4-109.01, ~~or~~ R13-4-103(F) (G), or R13-4-104;
 5. ~~The illegal use of~~ Illegally possessing or using marijuana, a dangerous drug, or a narcotic;
 6. ~~Unauthorized use of~~ Using or being under the influence of spirituous liquor on duty without authorization;
 7. ~~The commission of~~ Committing a felony, an offense that would be a felony if committed in this state, or an offense involving dishonesty, unlawful sexual conduct, or physical violence;
 8. ~~Malfesance~~ Committing malfesance, misfesance, or nonfesance in office;
 9. Performing the duties or exercising the authority of a peace officer without having active certified status;
 10. Making a false or misleading statement, written or oral, to the Board or its representative;
 11. Failing to furnish information in a timely manner to the Board or its representative on request; or
 - 9.12. Any Engaging in any conduct or pattern of conduct that tends to disrupt, diminish, or otherwise jeopardize public trust in the law enforcement profession.
- B. Cause for cancellation. The Board shall cancel the certified status of a peace officer if the Board determines that the ~~person~~ individual was not qualified when certified status was granted, and revocation is not warranted under subsection (A).
- C. Cause for mandatory revocation. Upon the receipt of a certified copy of a judgment of a felony conviction of a peace officer, the Board shall revoke certified status of the peace officer.
- D. Action by the Board. Upon receipt of information that cause exists to deny certification, or to cancel, suspend, or revoke the certified status of a peace officer, the Board shall determine whether ~~action is to be initiated~~ initiate action regarding the retention of certified status. The Board may conduct additional inquiries or investigations to obtain sufficient information to make a fair determination.

- E. Notice of action. The Board shall notify the affected ~~person~~ individual of Board action to initiate proceedings regarding certified status for a cause listed under subsection (A) or (B). The notice shall be served as required by A.R. S. § 41-1092.04, and specify the cause for the action. Within 30 days ~~of delivery~~ after receiving the notice, the ~~person~~ individual named in the notice shall advise the Board or its staff in writing whether a hearing is requested. Failure to file a written request for hearing at the Board offices within 30 days ~~of service~~ of after receiving the notice constitutes a waiver of the right to a hearing.
- F. Effect of agency action. Action by an agency or a decision resulting from an appeal of that action does not preclude action by the Board to deny, cancel, suspend, or revoke the certified status of a peace officer.

R13-4-109.01. Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies

- A. Restricted status. The Board shall restrict certified status if a peace officer fails to satisfy the requirements of R13-4-111.
1. The Board shall consider reports of training or qualification deficiencies at a regularly scheduled public meeting and provide a peace officer alleged to have a training or qualification deficiency the opportunity to be heard without referral to an independent hearing officer. ~~The issue at~~ At the public meeting, ~~the Board shall be restricted to determine only~~ whether the peace officer has successfully completed the required training or qualification and can produce documentation to verify it.
 2. ~~A~~ The Board shall leave a restriction shall remain in effect until the training or qualification requirement is met and the peace officer files written verification of the training or qualification with the Board.
 3. The Board shall provide notice of ~~action and hearing~~, restriction or reinstatement following a restriction under this Section by regular mail to the peace officer at the employing agency address. The Board shall provide a copy of the restriction or reinstatement notice by regular mail to the agency head.
- B. Firearms qualification. If a peace officer fails to satisfy R13-4-111(C), the peace officer shall not carry or use a firearm on duty.
- C. Continuing and proficiency training. If a peace officer fails to satisfy R13-4-111(A) or (B), the peace officer shall not engage in enforcement duties, carry a firearm, wear or display a badge, wear a uniform, make arrests, perform patrol functions, or operate a marked police vehicle.

R13-4-110. Basic Training Requirements

- A. Required training for certified status. The Board shall not certify and ~~a person~~ an individual shall not perform the duties of a peace officer until the ~~person~~ individual successfully completes basic training as follows:
1. To be certified as a full-authority peace officer, ~~a person~~ an individual shall complete the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass the CFE.
 - a. Board staff shall administer the CFE.

- b. The Board shall ensure that the CFE is administered during the final two weeks of the full-authority peace officer basic training course.
 - c. ~~A person~~ An individual passes the CFE by achieving a score of at least 70 percent on each of the three blocks of the CFE when each block is scored separately.
 - d. ~~A person~~ An individual who fails one or more blocks of the CFE may retake the failed block one time before the ~~person~~ individual is scheduled to graduate from the academy.
 - e. ~~A person~~ An individual who fails a retake of a block of the CFE, as described in subsection (A)(1)(d), may retake the failed block once more within 60 days from the original testing date if the ~~person~~ individual remains appointed by the original appointing agency or enrolled in the academy.
 - f. ~~A person~~ An individual who fails a second retake of a block of the CFE, as described in subsection (A)(1)(e), may pursue certification only by repeating the 585-hour full-authority peace officer basic training course.
 - g. An agency head is not required to continue to appoint ~~a person~~ an individual during the 60 days permitted for a second retake of a failed block of the CFE, as described in subsection (A)(1)(e).
2. To be certified as a specialty peace officer, ~~a person~~ an individual shall complete a Board-prescribed specialty peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a specialty peace officer.
 3. To be certified as a limited-authority peace officer, ~~a person~~ an individual shall complete a Board-prescribed limited-authority peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a limited-authority peace officer.
 - ~~4. To be certified as a limited correctional peace officer, a person shall complete the correctional officer basic training course specified in R13-4-205 and the 48-hour limited correctional peace officer supplement course specified in R13-4-116, at the Arizona correctional officer training academy.~~
- B. Exceptions.** The training requirement in subsection (A) is waived when an agency uses ~~a person~~ an individual during a:
1. Riot, insurrection, disaster, or other event that exhausts the peace officer resources of the agency and the ~~person~~ individual is attending an academy; or
 2. Field training program that is a component of a basic training program at an academy, and the ~~person~~ individual is under the direct supervision and control of a certified peace officer.
- C. Firearms training required.**
- ~~1. Unless otherwise specified in this Section, a peace officer shall complete the firearms qualification courses required in R13-4-116(E) before the peace officer carries a firearm in the course of duty.~~
 - ~~2. Before carrying a firearm in the course of duty, a limited correctional peace officer shall:~~

~~a. Meet the requirements of R13-4-205, and~~

~~b. Complete a night-time firearms qualification shoot based on the course of fire, as described in R13-4-205.~~

- D. Waiver of required training. ~~A person~~ An agency, on behalf of an individual, may apply to the Board for a waiver of required training if the ~~person's~~ individual's certified status is lapsed or the ~~person~~ individual has functioned in the capacity of a peace officer in another state or for a federal law enforcement agency. The Board shall grant a complete or partial waiver of required training if the Board determines that the best interests of the law enforcement profession are served, the public welfare and safety are not jeopardized, and:
1. The appointing agency submits to the Board written verification of the ~~person's~~ individual's previous experience and training on a form prescribed by the Board;
 2. The ~~person~~ individual meets the minimum qualifications listed in R13-4-105;
 3. The ~~person~~ individual complies with the requirements of R13-4-103(E)(1);
 4. The appointing agency complies with the requirements of R13-4-106(C);
 5. The ~~person~~ individual successfully completes an examination measuring the ~~person's~~ individual's comprehension of the full-authority peace officer basic training course as follows:
 - a. ~~If during the last three years, the person~~ individual has at least two years of active-status experience as a peace officer in another state or for a federal law enforcement agency during the last three years, has been on inactive status for no more than one year, and ~~the person~~ submits to the Board basic training and in-service training records that the Board determines demonstrate substantial comparability to Arizona's full-authority peace officer basic training course, the ~~person~~ individual shall pass ~~the portions~~ blocks II and IV of the CFE ~~covering legal and liability issues specific to Arizona;~~
 - b. If the ~~person's~~ individual's certification is lapsed, the ~~person~~ individual shall pass all blocks of the CFE; ~~or~~
 - c. If the ~~person's~~ individual's out-of-state or federal law enforcement experience does not meet the criterion in subsection (D)(5)(a), but the Board determines that the ~~person's~~ individual's basic training and in-service training records demonstrate substantial comparability to Arizona's full-authority peace officer basic training course, the ~~person~~ individual shall pass all blocks of the CFE; and
 - d. The provisions in subsections (A)(1)(c) through (f) apply to this subsection; and
 6. In addition to the examination required under subsection (D)(5), the ~~person~~ individual satisfactorily performs the practical demonstrations of proficiency in physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).
- E. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-111. Certification Retention Requirements

A. Continuing training required.

1. The following continuing training standards apply for a peace officer to retain certification:
 - a. A full-authority peace officer shall complete eight hours of continuing training each year beginning January 1; following the date the officer is certified.
 - b. A specialty, or limited-authority, ~~or limited correctional~~ peace officer shall complete eight hours of continuing training every three years beginning January 1; following the date the officer is certified.
2. Continuing training course standards for peace officers. The provider of a continuing training course for peace officers shall ensure that:
 - a. The course curriculum consists of advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1);
 - b. The instructor meets the requirements of R13-4-114(A)(2)(a) or (b);
 - c. An attendance verification certificate, which includes a statement that the provider believes the course meets the requirements of this Section, is given to each attendee for audit purposes;
 - d. If the training provider is an agency, an attendance roster and lesson plan or other information sufficient to determine compliance with this Section is made available upon request by the Board for Board audit;
 - e. If the training provider is an outside provider that does not seek confirmation that the course meets the requirements under subsection (A)(3)(c), a copy of the lesson plan or other information sufficient to determine compliance with this Section is given to each attendee; and
 - f. If the training provider is an outside provider that seeks and receives confirmation under subsection (A)(3)(c), a copy of the Board's written confirmation is distributed to each attendee.
3. Training providers. Courses of continuing training may be conducted by the Board, an agency, or an outside provider.
 - a. All Board-provided continuing training courses meet the requirements of this Section.
 - b. Agency-provided continuing training courses meet the requirements of this Section if all the requirements of subsection (A)(2) are met.
 - c. Outside-provider continuing training courses meet the requirements of this Section if all the requirements of subsection (A)(2) are met. The Board shall inform an outside provider in writing whether a continuing training course meets these requirements if a course package is submitted to the Board, before the training is conducted, that includes:
 - i. A description of the training course that allows the Board to determine whether the course contains advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1);

- ii. The name of the person, or if applicable, the institution or organization, providing the training with sufficient information to allow the Board to determine whether the requirements of R13-4-114(A)(2)(a) or (b) are met;
 - iii. A course schedule listing the number of instructional hours; and
 - iv. An attestation that the outside provider shall, upon request by the Board, make the lesson plan or other information sufficient to determine compliance with this Section available for Board audit, and shall ensure that the requirement of subsection (A)(2)(b) is met.
- d. The Board's confirmation that a continuing training course conducted by an outside provider meets the requirements of this Section is not an evaluation of the content of the course. Rather, confirmation indicates only that the topic of the course is consistent with R13-4-116(E)(1). Confirmation is effective as long as the information submitted to the Board under subsection (A)(3)(c) is unchanged.
- e. The Board shall withdraw confirmation that a continuing training course conducted by an outside provider meets the requirements of this Section if the Board receives information that the course content conflicts with the basic peace officer course content and the Board finds that the conflict creates an issue of public safety, liability, or ethics.

- ~~4. A limited correctional peace officer satisfies the requirements of this Section by obtaining training that is:~~
- ~~a. Approved under R13-4-206;~~
 - ~~b. Provided by an instructor who meets the requirements of R13-4-205(C)(5), and~~
 - ~~e. On a topic area listed in R13-4-116(E)(4).~~

~~5.4.~~ Required records. A peace officer shall provide to the appointing agency a copy of all documents provided to the peace officer under subsection (A)(2)(c), (A)(2)(e), or (A)(2)(f). The appointing agency shall maintain the documents and make them available, upon request by the Board, for Board audit.

B. Proficiency training required.

1. To retain certification, a peace officer who is not in a supervisory position within the peace officer's appointing agency shall complete eight hours of proficiency training every three years beginning January 1, following the date the peace officer is certified.
2. Proficiency training course standards. The provider of a proficiency training course for peace officers shall ensure that:
 - a. The training requires physical demonstration of one or more performance objectives included in the 585-hour full-authority peace officer basic training course under R13-4-116 and demonstration of the use of judgment in the application of the physical act;
 - b. The curriculum consists of advanced or remedial instruction on one or more of the following topic areas:
 - i. Defensive Arrest and control tactics ~~and impact weapons,~~
 - ii. Tactical firearms (not the annual firearms qualification required under this Section),

- iii. Emergency vehicle operations,
 - iv. Pursuit operations,
 - v. First aid and emergency care,
 - vi. Physical conditioning, and
 - vii. High-risk stops;
- c. The instructor meets the requirements of R13-4-114(A)(2)(c);
 - d. An attendance verification certificate, which includes a statement that the provider believes the course meets the requirements of this Section, is given to each attendee for audit purposes; and
 - e. If the training provider is an agency, an attendance roster and lesson plan or other information sufficient to determine compliance with this Section is made available upon request by the Board for Board audit;
 - ~~f. If the training provider is an outside provider that does not seek confirmation under subsection (B)(3)(e) that the course meets the requirements of this Section, a copy of the lesson plan or other information sufficient to determine compliance with this Section is given to each attendee; and~~
 - ~~g. If the training provider is an outside provider that seeks and receives confirmation under subsection (B)(3)(e), a copy of the Board's written confirmation is given to each attendee.~~
3. Training providers. Proficiency Courses that qualify for proficiency training courses credit may be conducted by the Board; or an agency, or an outside provider.
- a. All Board-provided proficiency training courses meet the requirements of this Section.
 - b. Agency-provided proficiency training courses meet the requirements of this Section if all the requirements of subsection (B)(2) are met.
 - ~~e. Outside provider proficiency training courses meet the requirements of this Section if all the requirements of subsection (B)(2) are met. The Board shall inform an outside provider in writing whether a proficiency training course meets these requirements if a course package is submitted to the Board, before the training is conducted, that includes:~~
 - ~~i. — A description of the training course that allows the Board to determine whether the course contains advanced or remedial instruction on one or more of the topic areas specified in subsection (B)(2);~~
 - ~~ii. — The name of the person, or if applicable, the institution or organization, providing the training with sufficient information to allow the Board to determine whether the requirements of R13-4-114(A)(2)(e) are met;~~
 - ~~iii. — A course schedule listing the number of instructional hours; and~~
 - ~~iv. — An attestation that the outside provider shall, upon request by the Board, make the lesson plan and other information sufficient to determine compliance with this Section available for Board audit, and shall ensure that the requirement of subsection (B)(2)(d) is met.~~

- d. ~~The Board's confirmation that a proficiency training course conducted by an outside provider meets the requirements of this Section is effective as long as the information submitted to the Board under subsection (B)(3)(e) is unchanged.~~
4. ~~A limited correctional peace officer satisfies the requirements of this Section by obtaining training that is:~~
- a. ~~Approved under R13-4-206;~~
 - b. ~~Provided by an instructor who meets the requirements of R13-4-205(C), and~~
 - c. ~~On a topic area listed in subsection (B)(2)(b) except (B)(2)(b)(iv).~~
- 5.4. Required records. A peace officer shall provide to the appointing agency a copy of all ~~documents~~ the document provided to the peace officer under subsection (B)(2)(d), ~~(B)(2)(f) or (B)(2)(g)~~. The appointing agency shall maintain and make the documents document ~~and make them~~ available, upon request by the Board, for Board audit.
- C. Firearms qualification required. A peace officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each year beginning January 1 following certification by completing a Board-prescribed firearms qualification course, using a service handgun and service ammunition, and a Board-prescribed target identification and judgment course.
- 1. Firearms qualification course standards.
 - a. A firearms qualification course is a course:
 - i. Prescribed under R13-4-116(E)(1), or
 - ii. Determined by the Board to measure firearms competency at least as accurately as courses prescribed under R13-4-116(E)(1).
 - b. The provider of a firearms qualification course shall ensure that the course includes:
 - i. A timed accuracy component;
 - ii. A type and style of target that is equal to, or more difficult than, targets used in a course prescribed under R13-4-116(E)(1); and
 - iii. A success criterion that is equal to, or more difficult than, criteria used in a course prescribed under R13-4-116(E)(1).
 - 2. Firearms target identification and judgment course standards.
 - a. A firearms target identification and judgment course is a course:
 - i. Prescribed under R13-4-116(E)(1), or
 - ii. Determined by the Board to measure target identification and judgment competency at least as accurately as courses prescribed under R13-4-116(E)(1).
 - b. The provider of a firearms target identification and judgment course shall ensure that the course includes:
 - i. A timed accuracy component;

- ii. A type and style of target discrimination test that is equal to, or more difficult than, those used in a course prescribed under R13-4-116(E)(1); and
 - iii. A success criterion that is equal to, or more difficult than, criteria used in a course prescribed under R13-4-116(E)(1).
3. The provider of a firearms qualification or firearms target identification and judgment course shall ensure that the course is taught by a firearms instructor who meets the requirements of R13-4-114(A)(2)(c).
- D. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-112. ~~Time-frames~~ Time Frames

- A. For the purposes of A.R.S. § 41-1073, the Board establishes the following ~~time-frames~~ time frames for peace officer certification:
- 1. Administrative completeness review ~~time-frame~~ time frame: 90 days.
 - 2. Substantive review ~~time-frame~~ time frame: 180 days.
 - 3. Overall ~~time-frame~~ time frame: 270 days.
- B. The administrative completeness review ~~time-frame~~ time frame begins on the date the Board receives the report required by R13-4-108(A)(1) from an appointing agency.
- 1. Within 90 days, the Board shall review the report and issue to the appointing agency a ~~statement~~ notice of administrative completeness or a notice of administrative ~~deficiencies~~ deficiency that lists each document or item of information establishing compliance with R13-4-105 that is missing.
 - 2. If the Board issues a notice of administrative deficiency, the appointing agency shall make the missing documents and information available to the Board within 90 days of the date of the notice. The administrative completeness review ~~time-frame~~ time frame is suspended from the date of the deficiency notice until the date the missing documents and information are made available to the Board.
 - 3. If the appointing agency fails to make available all missing documents and information within the 90 days provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be certified shall apply again under R13-4-103.
 - 4. When the file is administratively complete, the Board shall provide written notice of administrative completeness to the appointing agency.
- C. The substantive review ~~time-frame~~ time frame begins on the date the Board issues the notice of administrative completeness.
- 1. During the substantive review ~~time-frame~~ time frame, the Board may make one comprehensive written request for additional information.
 - 2. The appointing agency shall make available to the Board the additional information identified in the request for additional information within 60 days. The ~~time-frame~~ time frame for the Board to finish the

substantive review of the application is suspended from the date of the request for additional information until the additional information is made available to the Board.

3. If the appointing agency fails to make available the additional information requested within the 60 days provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be certified shall apply again under R13-4-103.
4. When the substantive review is complete, the Board shall grant or deny certification.

R13-4-114. Minimum Course Requirements

A. Instructors. An academy administrator or agency head shall ensure that only an instructor who meets the requirements of this Section facilitates a Board-prescribed course.

1. Instructor classifications.

- a. General instructor. ~~A person~~ An individual qualified to teach topics not requiring a proficiency instructor under subsection (A)(1)(c).
- b. Specialist instructor. ~~A person~~ An individual, other than an Arizona peace officer, qualified to teach a topic in which the instructor has special expertise but who does not qualify for general instructor status.
- c. Proficiency instructor. ~~A person~~ An individual qualified to teach a topic area listed in R13-4-111(B)(2)(b).

2. Instructor qualification standards.

- a. A general instructor shall meet the requirements of subsections (A)(2)(a)(i) and (A)(2)(a)(ii) and either the requirement of subsection (A)(2)(a)(iii) or (A)(2)(a)(iv):
 - i. Have two ~~years~~ years' experience as a certified peace officer;
 - ii. Maintain instructional competency;
 - iii. Successfully complete a Board-sponsored instructor training course or an instructor training course that contains all of the performance objectives and demonstrations of the Board-sponsored instructor course;
 - iv. Possess a community college or university teaching certificate.
- b. A specialist instructor shall meet the requirements of subsections (A)(2)(b)(i) and (A)(2)(b)(ii) and either subsection (A)(2)(b)(iii) or subsections (A)(2)(b)(iv) and (A)(2)(b)(v):
 - i. Be nominated by an agency head or the administrator of an academy authorized to provide a peace officer basic training course;
 - ii. Maintain instructional competency;
 - iii. Possess a professional license or certification other than a peace officer certification that relates to the topics to be taught;

- iv. Provide documentation to the agency head or academy administrator for forwarding to the Board that demonstrates the expertise and ability to enhance peace officer training in a special field;
 - v. Possess a community college or university teaching certificate.
- c. A proficiency instructor shall meet the requirements of subsections (A)(2)(c)(i) and (A)(2)(c)(ii) and either subsection (A)(2)(c)(iii) or (A)(2)(c)(iv):
- i. Meet the requirements for general instructor;
 - ii. Maintain instructional competency;
 - iii. Successfully complete a proficiency instructor course in a topic area listed in R13-4-111(B)(2)(b) that includes a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic training course listed in R13-4-116(E);
 - iv. Complete a form prescribed by the Board that documents advanced training and experience in the topic area including a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic training course listed in R13-4-116(E);
- d. A proficiency instructor shall meet the requirements of subsection (A)(2)(c) separately for each topic area listed in R13-4-111(B)(2)(b) for which the proficiency instructor seeks qualification.
3. Instructional competency. An academy administrator or an agency head shall immediately notify the Board in writing of any instructor:
- a. Who jeopardizes the safety of students or the public,
 - b. Whose instruction violates acceptable training standards,
 - c. Who is grossly deficient in performance as an instructor, or
 - d. Who is a proficiency instructor and fails to complete satisfactorily the competency assessment to instruct in the instructor's topic area within the 585-hour full-authority peace officer basic training course.
4. If the Board determines that an instructor fails to comply with the provisions of this Section, has an instructional deficiency, or fails to maintain proficiency, any course facilitated by the instructor does not meet the requirements of this Section.
- B. Curriculum standards.** An academy administrator or agency head shall ensure that the curriculum for a Board-prescribed course meets the following standards:
- 1. Curriculum.
 - a. Curriculum development employs valid, job-based performance objectives and learning activities, and promotes student, officer, and public safety, as determined by a scientifically conducted validation study of the knowledge, skills, abilities, and aptitudes needed by the affected category of Arizona peace officer.
 - b. The curriculum meets or exceeds the requirements of subsection (B)(2), unless otherwise provided in this Section.

2. Curriculum format standard. The curriculum consists of the following:
 - a. A general statement of instructional intent that summarizes the desired learning outcome, is broad in scope, and includes long-term or far-reaching learning goals;
 - b. Lesson plans containing:
 - i. Course title,
 - ii. Hours of instruction,
 - iii. Materials and aids to be used,
 - iv. Instructional strategy,
 - v. Topic areas in outline form,
 - vi. Performance objectives or learning activities,
 - vii. Success criteria, and
 - viii. Reference material;
 - c. Performance objectives consisting of at least the following components:
 - i. The student, which is an individual or group that performs a behavior as the result of instruction;
 - ii. The behavior, which is an observable demonstration by the student at the end of instruction that shows that the objective is achieved and allows evaluation of the student's capabilities to perform the behavior; and
 - iii. The conditions, which is a description of the important conditions of instruction or evaluation under which the student performs the behavior. Unless specified otherwise within the lesson plan, instruction and evaluation will be in written or oral form;
 - d. Learning activities. A student is not required to demonstrate mastery of learning activities as a condition for successfully completing the training. Learning activities are subject areas for which performance objectives are not appropriate because either:
 - i. Reliable and meaningful assessment of mastery of the material would be extremely difficult or impossible, or
 - ii. Mastery of the material is not likely to bear a direct relationship to the ability to perform entry-level peace officer job duties; and
 - e. The following decimal numbering system to provide a logical means of organization:
 - i. Functional area (1.0, 2.0, 3.0),
 - ii. Topic area (1.1.0, 1.2.0, 1.3.0), and
 - iii. Performance objective or learning activity (1.1.1, 1.1.2, 1.1.3).
- C. The Board shall maintain and provide upon request a copy of curricula that meet the standards of this Section.

R13-4-116. Academy Requirements

- A. Unless otherwise provided in this Article, only the basic training provided by an academy that the Board determines meets the standards prescribed in this Section may be used to qualify for certified peace officer status.
- B. The academy administrator shall ensure that the academy has the following:
1. A classroom with adequate heating, cooling, ventilation, lighting, and space;
 2. Chairs with tables or arms for writing;
 3. Visual aid devices for classroom presentation;
 4. Equipment in good condition for specialized instruction;
 5. A safe driving range for conducting the defensive and pursuit driving course;
 6. A firing range with adequate backstop to ensure the safety of all persons on or near the range; and
 7. A safe location for practical exercises.
- C. Administrative requirements. The academy administrator shall ensure that the academy:
1. Establishes and maintains written policies, procedures, and rules concerning: ~~the operation~~
 - a. Operation of the academy, ~~entrance~~
 - b. Entrance requirements, ~~and student~~
 - c. Student and instructor conduct, ~~and~~
 - d. Administering examinations;
 2. Admits only ~~persons~~ individuals who meet the requirements of R13-4-105, as attested to by the appointing agency or, in the case of an open enrollee, by the academy administrator, on a form prescribed by the Board;
 3. Administers to each student at the beginning of each academy session a written examination prescribed by the Board measuring competency in reading and writing English;
 4. Schedules sufficient time for Board staff to administer the CFE as required by R13-4-110(A); and
 5. ~~Employs~~ Uses only instructors who are qualified under R13-4-114(A).
- D. Academic requirements. The academy administrator shall ensure that the academy:
1. Establishes a curriculum with performance objectives and learning activities that meet the requirements of subsection (E) and R13-4-114(B);
 2. Requires instructors to use lesson plans that cover the course content and list the performance objectives to be achieved and learning activities to be used;
 3. Administers written, oral, or practical demonstration examinations that measure the attainment of the performance objectives;

4. Reviews examination results with each student and ensures that the student ~~makes and understands~~ is shown any necessary corrections and signs and dates an acknowledgment that the student participated in the review;
 5. Requires a student to complete successfully ~~an~~ oral or written ~~examination in each topic area~~ examinations that cover all topics in all functional areas before graduating.
 - a. Successful completion of an examination is a score of 70 percent or greater;
 - b. For a student who scores less than 70 percent, the academy shall:
 - i. Provide remedial training, and
 - ii. Re-examine the student in the area of deficiency; and
 - c. The academy shall allow a student to retake ~~an~~ each examination ~~in a topic area~~ only once;
 6. Requires a student to qualify with firearms as described in R13-4-116(E);
 7. Ensures that a student meets the success criteria for police proficiency skills under subsection (E)(1);
 8. Provides remedial training for a student who misses a class before allowing the student to graduate; and
 9. Refuses to graduate a student who is absent more than 32 hours from the full-authority peace officer basic training course or 16 hours from the specialty or limited-authority peace officer basic training course.
- E. Basic course requirements. The academy administrator shall ensure that the academy uses curricula that meet the requirements of R13-4-114 for the following basic courses of instruction.
1. The 585-hour full-authority peace officer basic training course shall include all of the topics listed in each of the following functional areas:
 - a. Functional Area I - Introduction to Law Enforcement.
 - i. Criminal justice systems,
 - ii. History of law enforcement,
 - iii. Law enforcement services,
 - iv. Supervision and management,
 - v. Ethics and professionalism, and
 - vi. Stress management.
 - b. Functional Area II - Law and Legal Matters.
 - i. Introduction to criminal law;
 - ii. Laws of arrest;
 - iii. Search and seizure;
 - iv. Rules of evidence;
 - v. Summonses, subpoenas, and warrants;
 - vi. Civil process;
 - vii. Administration of criminal justice;
 - viii. Juvenile law and procedures;

- ix. Courtroom demeanor;
 - x. Constitutional law;
 - xi. Substantive criminal law, A.R.S. Titles 4, 13, and 36; and
 - xii. Liability issues.
- c. Functional Area III - Patrol Procedures.
- i. Patrol and observation (part 1),
 - ii. Patrol and observation (part 2),
 - iii. Domestic violence,
 - iv. Mental illness,
 - v. Crimes in progress,
 - vi. Crowd control formations and tactics,
 - vii. Bomb threats and disaster training,
 - viii. Intoxication cases,
 - ix. Communication and police information systems,
 - x. Hazardous materials,
 - xi. Bias-motivated crimes,
 - xii. Fires, and
 - xiii. Civil Disputes.
- d. Functional Area IV - Traffic Control.
- i. Impaired driver cases;
 - ii. Traffic citations;
 - iii. Traffic collision investigation;
 - iv. Traffic collision (practical);
 - v. Traffic direction; and
 - vi. Substantive Traffic Law, A.R.S. Title 28.
- e. Functional Area V - Crime Scene Management.
- i. Preliminary investigation and crime scene management,
 - ii. Crime scene investigation (practical),
 - iii. Physical evidence procedures,
 - iv. Interviewing and questioning,
 - v. Fingerprinting,
 - vi. Sex crimes investigations,
 - vii. ~~Death investigations~~ investigations (including ~~training certified by the Department of Health Services on~~ sudden infant death syndrome),
 - viii. Organized crime activity,

- ix. Investigation of specific crimes, and
 - x. Narcotics and dangerous drugs.
- f. Functional Area VI - Community and Police Relations.
- i. Cultural awareness,
 - ii. Victimology,
 - iii. Interpersonal communications,
 - iv. Crime prevention, and
 - v. Police and the community.
- g. Functional Area VII - Records and Reports. Report writing.
- h. Functional Area VIII - Police Proficiency Skills.
- i. First aid,
 - ii. Firearms training (including firearms qualification),
 - iii. Physical conditioning,
 - iv. High-risk stops,
 - v. Defensive Arrest and control tactics,
 - vi. Vehicle operations, and
 - vii. Pursuit operations.
- i. Functional Area IX - Orientation and Introduction.
- i. Examinations and reviews,
 - ii. Counseling, and
 - iii. Non-Board specified courses.
2. The specialty peace officer basic training course shall include all of the topics necessary from the 585-hour full-authority peace officer basic training course for the curriculum to meet the requirements of R13-4-114(B).
3. The limited-authority peace officer basic training course shall include all of the topics necessary from the 585-hour full-authority peace officer basic training course for the curriculum to meet the requirements of R13-4-114(B).
- ~~4. The 48-hour limited correctional peace officer supplement course shall include all of the topics listed in the following functional areas:~~
- ~~a. Functional Area I - Introduction to Law Enforcement: Management and Supervision.~~
 - ~~b. Functional Area II - Law and Legal Matters.~~
 - ~~i. ———Laws of arrest, and~~
 - ~~ii. ———Search and seizure.~~
 - ~~c. Functional Area III - Patrol Procedures.~~
 - ~~i. ———Patrol and observation, and~~

- ii. ~~Bias motivated crimes.~~
- d. ~~Functional Area IV—Crime Scene Management:~~
 - i. ~~Preliminary investigation, and~~
 - ii. ~~Crime scene management.~~
- e. ~~Functional Area V—Proficiency Skills:~~
 - i. ~~First aid, and~~
 - ii. ~~Firearms training.~~

5.4. Administrative functions such as orientation, introductions, examinations and reviews, and counseling are exempt from the requirements of R13-4-114(B).

F. Records required. The academy administrator shall ensure that the following records are maintained and made available for inspection by the Board or staff. The academy administrator shall provide to the Board copies of records upon request.

1. A record of all students attending the academy;
2. A manual containing the policies, procedures, and rules of the academy;
3. A document signed by each student indicating that the student received and read a copy of the academy policies, procedures, and rules;
4. An application for each student, on a form prescribed by the Board, from the appointing agency ~~for each student or, in the case of an open enrollee, from the academy administrator~~, attesting that the requirements of R13-4-105 are met;
5. A copy of all lesson plans used by instructors;
6. An annually signed and dated acknowledgment that the academy administrator reviewed and approved each lesson plan used at the academy;
7. A copy of all examinations, answer sheets or records of performance, and examination review acknowledgments;
8. An attendance roster for all classes or other record that identifies absent students;
9. A record of classes missed by each student and the remedial training received;
10. A record of disciplinary actions for all students; and
11. A file for each student containing the student's performance history.

G. Reports required. The academy administrator shall submit to the Board:

1. At least 10 working days before the start of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
2. No more than five working days after the start of each academy session, on a form prescribed by the Board, a roster ~~containing the identification of~~ indicating whether a student is an open enrollee or appointed and if appointed, identifying the appointing agency, and the full name and Social Security number of each student;

3. No more than five working days after dismissing a student from the academy, notification of the dismissal and the reason;
 4. No later than the tenth day of each month, a report containing:
 - a. A summary of training activities and progress of the academy class to date;
 - b. Unusual occurrences, accidents, or liability issues; and
 - c. Other problems or matters of interest noted in the course of the academy, if not included under subsection (G)(4)(b);
 5. No more than 10 working days after the end of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
 6. No more than 10 working days after the end of each academy session, on a form prescribed by the Board, a roster ~~containing the identification of~~ indicating whether a student is an open enrollee or appointed and if appointed, identifying the appointing agency, and the full name and Social Security number of each student successfully completing the training.
- H. Required inspections. Before an academy provides training to ~~persons~~ individuals seeking certification for any category of peace officer, the Board staff shall conduct an onsite inspection of the academy to determine compliance with this Section and R13-4-114. Board staff shall conduct additional inspections as often as the Board deems necessary.
1. Within 30 days after the inspection, the Board staff shall provide to the academy administrator an inspection report that lists any deficiencies identified and remedial actions the academy is required to take to comply with the standards of this Section and R13-4-114.
 2. Within 30 days after receipt of the inspection report, the academy administrator shall submit to the Board a response that indicates the progress made to complete the remedial actions necessary to correct the deficiencies described in the inspection report. The academy administrator shall submit to the Board additional responses every 30 days until all remedial action is complete.
 3. Within 30 days after receipt of notice that all remedial action is complete, Board staff shall conduct another inspection.
 4. Following each inspection, Board staff shall present an inspection report to the Board describing the academy's compliance in meeting the standards of this Section and R13-4-114.
- I. If an academy does not conduct a peace officer basic training course for 12 consecutive months, the academy shall not provide training until Board staff conducts another inspection as required by subsection (H). Otherwise, an academy may continue to provide training unless the Board determines that the academy is not in compliance with the standards of this Section or R13-4-114.
- J. If the Board finds that an academy fails to comply with the provisions of this Section or R13-4-114, the academy shall not provide training to ~~persons~~ individuals seeking to be certified as peace officers.

K. An academy administrator shall ensure that an open enrollee is admitted only after the academy administrator complies with every requirement of an agency or agency head imposed by R13-4-105, R13-4-106, R13-4-107, and R13-4-108 except for R13-4-106(C)(4).

R13-4-117. Training Expense Reimbursements

- A. Approval of training courses. The Board shall approve or deny training courses for training expense reimbursement based on compliance with this Section and R13-4-111, and availability of funds.
- B. Application for reimbursement. Before the beginning of a training program described in R13-4-111, an agency planning to participate in the training and apply for reimbursement, shall notify the Board on prescribed forms.
- C. Claim for reimbursement. When ~~a person~~ an individual completes a training course, the appointing agency may submit a claim for reimbursement on a form prescribed by the Board. ~~The claim agency shall be submitted~~ submit the claim within 60 days after ~~completion of the training is completed~~.
- D. Allowable reimbursements. The Board shall allow the following reimbursements subject to the limits on the amount of reimbursement as determined by the Board under subsection (E):
1. The actual cost of lodging and meals while a peace officer ~~attends~~ attended a training course,
 - ~~2. The actual pay a peace officer received while attending a training course;~~
 - ~~3.2.~~ Tuition for a training course on a pro-rata basis for the actual hours of training attended, and
 - ~~4.3.~~ Other expenses incurred by a peace officer.
- E. Limitations on reimbursements. The following limitations apply to applications for reimbursement involving training courses.
1. The Board shall not reimburse an agency if the peace officer has previously completed the same training course within three years;
 2. The Board shall not reimburse an agency for a peace officer who fails to complete a training course except upon request of the appointing agency. The agency shall present the reasons for the non-completion to the Board with the request for reimbursement; and
 - ~~3. The Board may pay salary reimbursement for a training course only for the actual hours of training attended at the percentage rate established by the Board.~~
 - ~~4.3.~~ The Board shall not reimburse an agency for ~~payment~~ the cost of insurance, medical, pension, uniform, clothing, equipment, or other benefits or expenses of a peace officer while attending a training course.
- F. Academy reimbursement. The Board may reimburse an academy for the actual costs of materials, books, ammunition, registration fees and tuition, necessary for completion of a basic course up to the limits set by the Board. To receive reimbursement, an academy shall furnish paid receipts or invoices or other information as required by the Board to verify costs incurred. The Board shall not reimburse an academy for costs incurred

for registration fees, tuition, books, materials, or ammunition for a peace officer, if the Board has made these reimbursements for the peace officer's previous attendance at an academy.

R13-4-118. Hearings; Rehearings

- A. If a respondent makes a proper request for hearing under R13-4-109(E), the hearing shall be held in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- B. If a respondent fails to comply with the requirements under R13-4-109(E) within 30 days of the notice of action sent under R13-4-109(E), the Board may consider the case based on the information available.
- C. If a respondent requests a hearing, but fails to appear at the hearing, the Board or administrative law judge may vacate the hearing. If a hearing is vacated, the Board may deem the acts and violations charged in the notice of action admitted, and impose any of the sanctions provided by A.R.S. § 41-1822(C)(1).
- D. The Board shall render a decision in writing. The Board shall serve notice of the decision ~~upon~~ on each party as required by A.R.S. § 41-1092.04.
- E. ~~Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies.~~
- ~~E.F.~~ A party may file a motion for rehearing or ~~reconsideration~~ review of ~~the~~ a decision with the Board not later than 30 days after service of the Board's decision, specifying the particular grounds for the motion.
- ~~F.G.~~ The Board may grant a rehearing or ~~reconsideration~~ review of a decision for any of the following reasons materially affecting the moving party's rights:
 - 1. Irregularity in the administrative proceedings, or any abuse of discretion that ~~deprives~~ deprived the moving party ~~was deprived~~ of a fair hearing;
 - 2. Misconduct of the Board, the administrative law judge, or the prevailing party;
 - 3. Mistake or surprise that could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the hearing;
 - 5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
 - 6. The decision was not justified by the evidence or the decision was contrary to law.
- ~~G.H.~~ The Board may affirm or modify the decision or grant a rehearing to any or all of the parties, on part or all of the issues, for any of the reasons in subsection ~~(F)~~ (G). An order granting a rehearing shall specify the particular issues in the rehearing and the rehearing shall concern only the matters specified.
- I. If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final decision without an opportunity for rehearing or review.

ARTICLE 2. CORRECTIONAL OFFICERS

R13-4-201. Definitions

~~¶~~ The definitions in A.R.S. § 41-1661 apply to this Article, Additionally, unless the context otherwise requires:

“Academy” means the Correctional Officer Training Academy (COTA) of the Arizona Department of Corrections in Tucson, Arizona, or a satellite location authorized by the Director.

“Appointment” means the selection of ~~a person~~ an individual as a correctional officer.

“Applicant” means ~~an person~~ individual who applies to be a correctional officer.

~~“Board” is defined in A.R.S. § 41-1661(2).~~

~~“Cadet” means an applicant who meets the requirements for appointment as~~ individual who is attending the academy and, upon graduation, will become a state correctional officer ~~and is selected to attend the academy.~~

~~“Correctional officer” is defined in A.R.S. § 41-1661(3).~~

“Dangerous drug or narcotic” is defined in R13-4-101.

“Department” means the Arizona Department of Corrections.

~~“Director” is defined in A.R.S. § 41-1661(4).~~

~~“Employing agency” is defined in A.R.S. § 41-1661(5).~~

“Experimentation” means the illegal use of marijuana, a dangerous drug, or narcotic, as described in R13-4-105(B) and (C).

“State correctional officer” means ~~a person~~ an individual employed by the Department in the correctional ~~service officer and correctional program officer~~ series.

R13-4-202. Uniform Minimum Standards

A. To be admitted to the academy for training as a state correctional officer, ~~a person~~ an individual shall:

1. Be a citizen of the United States or ~~be~~ eligible to work in the United States;
2. Be at least 21 years of age by the date of graduation from the academy;
3. Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination or equivalent as specified in R13-4-203(C)(3);
4. Have a valid Arizona driver’s license (Class 2 or higher) by the date of graduation from the academy;
5. Undergo a complete background investigation that meets the standards of R13-4-203;
6. Undergo a physical examination (within 12 months before appointment) as prescribed by the Director by a licensed physician designated by the Director;
7. Not have been dishonorably discharged from the United States Armed Forces;

8. Not have experimented with marijuana within the past 12 months;
9. Not have experimented with a dangerous drug or narcotic within the past five years;
10. Not have ever illegally used marijuana, or a dangerous drug or narcotic other than for experimentation;
11. Not have a pattern of abuse of prescription medication; and
12. Not have committed a felony or a misdemeanor of a nature that the Board determines has a reasonable relationship to the functions of the position, in accordance with A.R.S. § 13-904(E).

B. If the Director wishes to appoint an individual whose conduct is grounds to deny certification under R13-4-109, the Director may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion by complying with R13-4-105(D).

B.C. Code of Ethics. To enhance the quality of performance and the conduct and the behavior of correctional officers, ~~a person~~ an individual appointed to be a correctional officer shall commit to the following Code of Ethics and shall affirm the commitment by signing the ~~code, on a form designated by the Board~~ Code:

"I shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands. I shall be courteous, considerate, and prompt when dealing with the public, realizing that I serve the public. I shall maintain mutual respect and professional cooperation in my relationships with other staff members.

I shall be firm, fair, and consistent in the performance of my duties. I shall treat others with dignity, respect, and compassion, and provide humane custody and care, void of all retribution, harassment, or abuse. I shall uphold the Constitutions of the United States and the state of Arizona, and all federal and state laws. Whether on or off duty, in uniform or not, I shall conduct myself in a manner that will not bring discredit or embarrassment to my agency or the state of Arizona.

I shall report without reservation any corrupt or unethical behavior that could affect either inmates, employees, or the integrity of my agency. I shall not use my official position for personal gain. I shall maintain confidentiality of information that has been entrusted to me and designated as such.

I shall not permit myself to be placed under any kind of personal obligation that could lead any person to expect official favors. I shall not accept or solicit from anyone, either directly or indirectly, anything of economic value such as a gift, gratuity, favor, entertainment, or loan, that is or may appear to be, designed to influence my official conduct. I will not discriminate against any inmate, employee, or any member of the public on the basis of race, gender, creed, or national origin. I will not sexually harass or condone sexual harassment of any person. I shall maintain the highest standards of personal hygiene, grooming, and neatness while on duty or otherwise representing the state of Arizona."

R13-4-203. Background Investigation

- A. The Department shall conduct a background investigation before an applicant is admitted to the academy. The Department shall review the personal history statement submitted under subsection (B) and the results of the

background investigation required in subsection (C) to determine ~~that~~ whether the person individual meets the requirements of R13-4-202, and ~~that the person's individual's~~ personal history statement is accurate and truthful.

- B. Personal history. An applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the Board. ~~The applicant shall complete the personal history statement shall be completed~~ before the start of the background investigation. ~~It shall contain and ensure that the personal history statement answers to questions required in~~ provides the information necessary for the Department to conduct the investigation described in subsection (C).
- C. Investigative requirements. Before admitting an applicant to the academy, the Department shall collect, verify, and retain documents establishing that ~~an~~ the applicant meets the standards specified in this Article. At a minimum, this documentation shall include:
1. Proof of the applicant's age and United States citizenship or eligibility to work in the United States. A copy of any of the following regarding the applicant is acceptable proof:
 - a. ~~The applicant's birth~~ Birth certificate,
 - b. United States passport,
 - c. Certification of United States Naturalization,
 - d. Certificate of Nationality, or
 - e. Immigration Form I-151 or I-1551.
 2. Proof of the applicant's valid ~~Arizona~~ driver's license. A copy of the applicant's ~~Arizona~~ driver's license, ~~along with~~ and written verification of the applicant's driving record from the ~~Arizona~~ applicable state's Department of Transportation, Motor Vehicle Division, is required proof.
 3. Proof that the applicant is a high school graduate or its equivalent. The following are acceptable proof:
 - a. A copy of a ~~high school diploma, or graduation certificate~~ from a high school recognized by the department of education of the jurisdiction in which the diploma is issued;
 - b. ~~Successful~~ A copy of a certificate showing successful completion of the ~~Arizona~~ General Education Development (G.E.D.) ~~tests or successful completion of an equivalent test from another state, that meets or exceeds the Arizona Department of Education's requirement for G.E.D. testing; or~~
 - c. In the absence of proof of high school graduation or successful completion of the G.E.D. tests test,
 - i. A copy of an ~~Associate's Degree~~ a degree or transcript from an accredited college or university showing successful completion of high school or high school equivalency;
 - ~~ii. A certificate issued by the United States Armed Forces Institute (U.S.A.F.I.) before December 31, 1974, showing successful completion of high school equivalency;~~
 - ~~iii.~~ ii. A United States Military Service Record DD Form 214-#4 with the Education block indicating high school completion, or

~~iv.iii.~~ ~~The applicant may submit other~~ Other evidence of high school education equivalency submitted to the Board for consideration by the Board.

4. Record of any military discharge. A copy of the Military Service Record (DD Form 214-#4) is acceptable proof.
5. Results of a psychological fitness assessment approved by the Director and conducted by a psychologist or psychiatrist designated by the Department.
6. Personal reference references: The names and addresses of at least three individuals who can provide information regarding the applicant.
7. ~~and previous employer inquiries~~ Previous employers or schools attended. ~~Information provided by at least three personal references and~~ The names and addresses of all previous employers of and schools attended by the applicant for the past five years shall be documented by the Department.
8. Residence history. The complete address for every location at which the applicant has lived in the last five years.
- ~~7.9.~~ Law enforcement agency records. The Department shall request and review law enforcement agency records in jurisdictions where the applicant has lived, worked, or attended school in the past five years. ~~Information~~ The Department shall document the information obtained ~~shall be documented by the Department.~~
- ~~8.10.~~ Criminal history query. Results of the Department's The Department shall query of the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state where the applicant has lived, worked, or attended school in the past five years and review ~~of that~~ the criminal history record for any arrest or conviction to determine compliance with R13-4-202.
- ~~9.11.~~ ~~An applicant~~ Fingerprint card. The Department shall obtain from an applicant and submit a fingerprint card ~~processed for processing~~ by the Arizona Department of Public Safety and the Federal Bureau of Investigation.
 - a. The Department shall process ~~an applicant a~~ a fingerprint card for all ~~cadets~~ an applicant entering the academy, except as provided in subsections (C)(9)(b) and (C)(9)(c). ~~Fingerprint cards shall be processed by the~~ The Department; shall process a fingerprint card for an applicant even if the applicant has a processed applicant fingerprint card from a previous employer.
 - b. If ~~an applicant~~ the fingerprint card is not fully processed when the applicant is ready to enter the academy, the Department may allow the applicant to attend the academy if:
 - i. A computerized criminal history check has been made and the results are on file with the Department, and
 - ii. The applicant meets all other requirements of this Section and R13-4-202.

- c. If the Department has not received a fully processed fingerprint card within 15 weeks of the date of admission to the academy, the ~~person~~ individual does not meet the requirements of this Section and may be terminated from the academy. The Department may extend the deadline for receipt of a processed fingerprint card an additional 15 weeks. An individual terminated from the academy under this subsection. Upon receipt of a fully processed card, the person may be re-employed under R13-4-208 when a fully processed fingerprint card is received.

R13-4-204. Records and Reports

- A. Reports. The Department shall submit to the Board a report by the Director attesting that each ~~person~~ individual completing the academy meets the requirements of R13-4-202.
- B. Records. The Department shall make Department records available to the Board upon request of the Board or its staff. The Department shall keep the records in a central location. The Department shall maintain:
1. A copy of reports submitted under subsection (A);
 2. All written documentation obtained or recorded under R13-4-202 and R13-4-203; and
 3. A record of all advanced training, specialized training, continuing education, and firearms qualification conducted under R13-4-206 ~~and R13-4-207.~~
- C. Record retention. The Department shall maintain the records required by this Section as follows:
1. For applicants investigated under R13-4-203 who are not appointed: two years; and
 2. For applicants who are appointed: five years from the date of ~~appointment~~ termination, except records retained under subsection (B)(3), shall be retained for three years.

R13-4-205. Basic Training Requirements

- A. Required training for state correctional officers. Before appointment as a state correctional officer, ~~a person an~~ individual shall complete a Board-approved basic correctional officer training program. This program shall meet or exceed the requirements of this Section.
- B. Curricula or training material approval ~~time-frames~~ time frames.
1. For the purposes of A.R.S. § 41-1073, the Board establishes the following ~~time-frames~~ time frames for curricula or training material that require Board approval under this Section and R13-4-206.
 - a. Administrative completeness ~~time-frame~~ time frame: 60 days.
 - b. Substantive review ~~time-frame~~ time frame: 60 days.
 - c. Overall ~~time-frame~~ time frame: 120 days.
 2. The administrative completeness review ~~time-frame~~ time frame begins on the date the Board receives the documents required by this Section or R13-4-206.

- a. Within ~~90~~ 60 days, the Board shall review the documents and issue to the Department a statement of administrative completeness or a notice of administrative deficiencies that lists each item required by this Section that is missing.
 - b. If the Board issues a notice of administrative deficiency, the Department shall submit the missing documents and information within 90 days of the notice. The administrative completeness ~~time frame~~ time frame is suspended from the date of the deficiency notice until the date the Board receives the missing documents and information.
 - c. If the Department fails to provide the missing documents within the 90 days provided, the Board shall deny the approval.
 - d. When the file is administratively complete, the Board shall provide written notice of administrative completeness to the Department.
3. The substantive review ~~time frame~~ time frame begins on the date the Board issues the notice of administrative completeness.
- a. During the substantive review ~~time frame~~ time frame, the Board may make one comprehensive written request for additional information.
 - b. The Department shall submit to the Board the additional information identified in the request for additional information within 60 days. The ~~time frame~~ time frame for the Board to finish the substantive review of the application is suspended from the date of the request for additional information until the Board receives the additional information.
 - c. The Board shall deny the approval if the additional information is not supplied within the 60 days provided.
 - d. When the substantive review is complete, the Board shall grant or deny approval.

C. Basic course specifications.

1. The Department shall develop the curriculum for the basic correctional officer training program.
 - a. The curriculum shall include courses in the following functional areas.
 - i. Functional Area I - Ethics and Professionalism;
 - ii. Functional Area II - Inmate Management;
 - iii. Functional Area III - Legal Issues;
 - iv. Functional Area IV - Communication Skills;
 - v. Functional Area V - Officer Safety, including firearms;
 - vi. Functional Area VI - Applied Skills;
 - vii. Functional Area VII - Security, Custody, and Control;
 - viii. Functional Area VIII - Conflict and Crisis Management; and
 - ix. Functional Area IX - Medical Emergencies, and Physical and Mental Health.

- b. The curriculum shall also contain administrative time for orientation, counseling, testing, and remedial training.
2. Curriculum The Department shall ensure that curriculum submitted to the Board for approval shall contain contains lesson plans that include:
 - a. Course title,
 - b. Hours of instruction,
 - c. Materials and aids to be used,
 - d. Instructional strategy,
 - e. Topic areas in outline form,
 - f. Success criteria, and
 - g. The performance objectives or learning activities to be achieved.
 3. After initial approval by the Board, the Director or the Director's designee shall: annually
 - a. Annually review and approve each lesson plan submitted to and approved by the Board under subsection (C)(2); used in the academy; and
 - b. If an approved lesson plan has been changed, submit the changed lesson plan to the Board for approval; or
 - c. ~~The Director or the Director's designee~~ If an approved lesson plan has not been changed, shall sign and date an acknowledgment of approval for each lesson plan.
 4. ~~A~~ The Department shall ensure that the following three components are specified for each performance objective shall consist of three components:
 - a. The learner, which is an individual or group that performs a behavior as the result of instruction;
 - b. The behavior, which is an observable demonstration by the learner at the end of instruction that shows that the objective is achieved and allows evaluation of the learner's capabilities relative to the behavior.
 - c. The conditions, which is a description of the important conditions of instruction or evaluation under which the learner will perform the stated behavior. Unless specified otherwise, the instruction and evaluation shall be in written or oral form.
 5. ~~Instructors~~ The Department shall ensure that instructors of basic correctional officer training courses shall meet ~~instructor~~ proficiency requirements developed by the Department and approved by the Board. ~~Instructors shall be qualified by~~ The Department shall ensure that proficiency requirements for instructors include education, experience, or a combination of both, ~~and~~. The Department shall be affirmed affirm to the Board that each instructor by the Department as having has the necessary qualifications before the instructor delivering delivers any instruction. In addition to these requirements, instructors of courses dealing with the proficiency skills of defensive tactics, physical conditioning, firearms, and medical

emergencies shall complete specialized training developed by the Department and approved by the Board. Instructors shall use lesson plans described in subsection (C)(2).

D. Academic requirements.

1. ~~Cadets~~ A cadet shall be given ~~any~~ a combination of written, oral, or practical demonstration examinations capable of measuring ~~their~~ the cadet's attainment of the performance objectives in each approved lesson plan.
2. Academy staff shall review examination results and academic progress with ~~cadets~~ each cadet ~~on a~~ weekly basis. Academy staff shall ensure that ~~cadets are aware~~ each cadet is informed of correct responses.
3. ~~Cadets~~ A cadet shall complete all examinations before graduating from the academy. To successfully complete a written or oral examination, a cadet shall ~~have~~ a score of at least 70 percent.
 - a. ~~For a student who~~ If a cadet receives a score of less than 70 percent, the academy shall provide the cadet with remedial training in areas of deficiency.
 - b. The academy shall not offer a cadet more than one re-examination per lesson plan.
4. ~~Each~~ A cadet shall qualify with firearms as specified in subsection (C). Firearms qualification shall include:
 - a. 50-shot daytime or nighttime qualification course with service handgun. The minimum passing score is 210 points out of a possible 250 points;
 - b. Seven-shot qualification course with service shotgun; and
 - c. Target identification and discrimination course.
5. ~~Each~~ A cadet shall meet success criteria described in the Board-approved curriculum for the proficiency skills of self-defense, physical conditioning, and medical emergencies, as approved under R13-4-205(C).
6. ~~An~~ The academy shall provide ~~cadets~~ a cadet who ~~do~~ does not attend a lesson with remedial training before graduation.
7. ~~An~~ The academy shall not graduate a cadet who attends less than 90 percent of the total hours of basic training ~~shall not graduate from the academy.~~

E. Exceptions. A cadet shall not function as a state correctional officer except:

1. As a part of an exercise within the approved basic training program ~~at the academy~~, if the cadet is under the direct supervision and control of a state correctional officer; or
2. At the discretion of the Director, for the duration of an emergency situation including, but not limited to, riots, insurrections, and natural disasters. A cadet shall not carry a firearm in the course of duty unless the cadet has successfully met the requirement of R13-4-205(D)(4).

F. Waiver of required training. The Board shall grant a complete or partial waiver of the required basic training, at the request of the Director, upon a finding by the Board that the best interests of the corrections profession are served and the public welfare and safety is not jeopardized by the waiver if an applicant:

1. ~~An applicant successfully~~ Successfully completes a basic corrections recruit officer training course comparable to or exceeding, in hours of instruction and subject matter, the Board-approved basic correctional officer training course and has a minimum of one year of experience as a correctional officer. ~~Written~~ The applicant shall include verification of previous experience and training ~~shall accompany with~~ the application for waiver;
 2. ~~An applicant meets~~ Meets the minimum qualifications specified in R13-4-202; and
 3. ~~An applicant successfully~~ Successfully completes a comprehensive examination measuring comprehension of the basic correctional officer training course. The comprehensive examination shall be prepared by the Department, ~~and~~ approved by the Board. ~~It shall~~ and include a written test and practical demonstrations of proficiency in firearms, physical conditioning, and defensive tactics.
- ~~G. Certificate of completion time frame. The Board shall provide certificates of completion for each person named in the Director's attestation made under R13-4-204(A) within 30 days of Board receipt. The Board shall mail certificates of completion to the Director for distribution.~~

R13-4-206. Field Training and Continuing Training Including Firearms Qualification

A. Field training requirement. Before graduating from the academy or within two months after graduation, a cadet or state correctional officer shall participate in and successfully complete a Board-approved field training program.

~~A.~~ B. Continuing training requirement.

1. A state correctional officer shall receive eight hours of Board-approved continuing training each calendar year beginning January 1, following the date the officer received certified status.
2. ~~A~~ In addition to the training required under subsection (B)(1), a state correctional officer authorized to carry a firearm shall qualify each calendar year after appointment beginning January 1, following the date the officer received certified status, on a Board-approved course of fire. The firearms qualification training shall meet the standards specified under subsection ~~(E).~~ Firearms qualification (F) and shall not be used to satisfy the requirements of R13-4-206~~(B)~~ (C).

~~B.~~ C. Continuing training requirements may be fulfilled by:

1. Advanced training programs, or
2. Specialized training programs.

~~C.~~ D. Advanced training programs. The Department shall develop, design, implement, maintain, evaluate, and revise advanced training programs that include courses enhancing a correctional officer's knowledge, skills, or abilities for the job that the correctional officer performs. The courses within ~~this~~ an advanced training program shall ~~be approved by the Board and~~ include advanced or remedial training in any topic listed in R13-4-205(C).

D.E. Specialized training programs. The Department shall develop, design, implement, maintain, evaluate, and revise specialized training programs that address a particular need of the Department and target a select group of officers. The courses within ~~this~~ a specialized training program shall ~~be approved by the Board and~~ include topics different from those in the basic corrections training program or any advanced training programs.

E.F. Firearms qualification required. A correctional officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each calendar year beginning the year following the receipt of certified status by completing a Board-prescribed firearms qualification course using a service handgun, service shotgun, and service ammunition, and a Board-prescribed target identification and judgment course.

1. Firearms qualification course standards.

a. A firearms qualification course is:

- i. A course prescribed under R13-4-205(C); or
- ii. A course determined by the Board to measure firearms competency at least as accurately as the course prescribed under R13-4-205(C).

b. All firearms qualification courses shall include:

- i. A timed accuracy component;
- ii. A type and style of target that is equal to, or more difficult than, the targets used under R13-4-205(C); and
- iii. Success criteria that are equal to, or more difficult than, the success criteria used under R13-4-205(C).

2. Firearms target identification and judgment course standards.

a. A firearms target identification and judgment course is:

- i. A course prescribed under R13-4-205(C); or
- ii. A course determined by the Board to measure target identification and judgment competency at least as accurately as those prescribed under R13-4-205(C).

b. All firearms target identification and judgment courses shall include:

- i. A timed accuracy component;
- ii. A type and style of target discrimination that is equal to, or more difficult than, those used under R13-4-205(C); and
- iii. Success criteria that are equal to, or more difficult than, those used under R13-4-205(C),

3. All courses shall be presented by a firearms instructor ~~meeting~~ who meets the requirements of under R13-4-205(C)(5).

R13-4-208. Re-employment of State Correctional Officers

- A. A state correctional officer who terminates employment may be re-employed by the Department within two years from the date of termination if the ~~person~~ former state correctional officer meets the requirements of R13-4-202 and R13-4-203; at the time of re-employment.
- B. A state correctional officer who terminates employment may be re-employed by the Department if re-employment is sought more than two years but less than three years from the original date of termination, if the ~~person~~ former state correctional officer meets the requirements of R13-4-202 and R13-4-203; at the time of re-employment; and completes the waiver provisions of R13-4-205(F).
- C. A ~~person~~ former state correctional officer who seeks re-employment more than three years from the date of termination shall meet all the requirements of this Article at the time of re-employment.