Arizona Administrative CODE

Supplement 18-2

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, through June 30, 2018.

Office of the Secretary of State
ADMINISTRATIVE RULES DIVISION

TITLE 6. ECONOMIC SECURITY

CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register.*

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

R6-1-202. Request for Review of Debt Setoff 3
R6-1-203. Departmental Review of Debt Setoff 4

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The release of this Chapter in supplement 18-2 replaces supplement 17-3, 7 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. "'Rule' means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency."

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The "R" stands for "rule" with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.
First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31
For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document's content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature's website, www.azleg.gov. An agency's authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State's website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency's exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor's notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.

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Administrative Rules Division
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TITLE 6. ECONOMIC SECURITY

CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY

Authority: A.R.S. § 41-1954 et seq.

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

Article 1 consisting of Sections R6-1-101 through R6-1-107 adopted effective September 22, 1988.

Former Article 1 renumbered as Article 2 effective September 22, 1988.

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ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

R6-1-101. Rulemaking Docket and Record

A. The Department of Economic Security ("the Department") shall maintain the official public rulemaking docket and agency rulemaking record required by A.R.S. §§ 41-1021 and 41-1029 in the office of the Department's Rules Unit, in the Department's central headquarters in Phoenix. Any person may review the docket and record Monday through Friday from 8:00 a.m. to 5:00 p.m., except on state holidays.

B. The Department may electronically maintain the rulemaking docket and agency rulemaking record, and shall facilitate public review of documents stored electronically by either providing the documents in paper or electronic form.

C. Any person who reviews a rulemaking docket or record shall sign a log that shall include the following information:

1. The person's name, current address, daytime telephone number, and e-mail address, if available;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the person is representing as a registered lobbyist or otherwise;
3. The docket or record that the person is reviewing;
4. Whether the person is requesting the records for a commercial purpose;
5. The date of review; and
6. The person's signature.

Historical Note

Former Section R6-1-101 renumbered as R6-1-201; new Section R6-1-101 adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-102. Manner of Submissions

A. The Department shall accept petitions, requests, submissions, criticisms, or other materials related to the rulemaking process in either paper form or electronically.

B. When submitting in paper form, the writing shall be legibly handwritten or typed on 8 1/2" by 11" white paper.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-103. Petition to Make, Amend, or Repeal a Rule

A. Any person may ask the Department to make a new rule or to amend or repeal an existing rule pursuant to A.R.S. § 41-1033 by filing a written petition with the Department's Director.

B. The petition shall contain:

1. The petitioner's name, current address, daytime telephone number, and e-mail address, if available;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
3. The specific language of the rule that the person wishes the Department to make, amend, or repeal;
4. The reason for the request, including the reason why any existing rule is inadequate, unreasonable, unduly burdensome, or otherwise improper;
5. A copy of any material that is referenced or otherwise incorporated in the petition; and
6. The signature of the petitioner.

C. Upon receipt of a petition, the Director's Office shall stamp the petition to indicate the date of receipt. If a petitioner submits a petition electronically, the Department shall consider the date of the electronic correspondence to be the receipt date.

D. No later than 60 days after receipt of a petition, the Department shall send the petitioner a written notice of the action taken on the petition. The Department shall send the notice electronically unless otherwise specified in the petition. The notice shall state the petitioner may appeal the Department's action under A.R.S. § 41-1033(B).

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-104. Request for Rulemaking Notices

A. A person who wishes to obtain a notice of the establishment of a rulemaking docket pursuant to A.R.S. § 41-1021(C), or a notice of proposed rulemaking pursuant to A.R.S. § 41-1022(C) shall file a written request for such notice with the Department's Director. The request shall contain:

1. The name, current address, and e-mail address, if available, of the requestor;
2. A statement describing the nature of the notice being requested, directed either to proposed rulemaking in general or to specific rules or subject matter; and
3. The signature of the requestor.

B. The Department's Rules Unit shall maintain a mailing list of all docket requests and requests for notice of proposed rulemaking. Requestors shall renew the request for notice by January 30 of each even-numbered year or the Department shall purge the request. The requestor shall keep current any address and information filed with the Department.

C. The Department shall send all information requested under this section electronically, unless the requestor requests a paper copy. The Department shall provide all requested documents according to the provisions of A.R.S. § 39-121 et seq.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-105. Oral Proceedings; Request for; Nature of

A. When requested under A.R.S. § 41-1023(C), the Department shall schedule an oral proceeding in at least one of the districts established under A.R.S. § 41-1961. The Department may provide internet or teleconference access to an oral proceeding.

B. A written request for an oral proceeding filed with the Department under A.R.S. § 41-1023(C) shall contain:

1. The name, current address, daytime telephone number, and e-mail address, if available, of each requestor;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the requestor is representing as a registered lobbyist or otherwise;
3. A statement identifying the rule for which the oral proceeding is requested; and
4. The signature of each requestor.

C. A person requesting an oral proceeding may indicate a specific city or district where the person would like the proceeding to be held. If such a location is included, the petition shall also explain how the proposed location will afford interested members of the public a reasonable opportunity to participate.

D. The presiding officer shall conduct an oral proceeding in an informal manner as described in this subsection.
1. A person may make an oral presentation without being placed under oath or affirmation.
2. Any person who makes an oral presentation shall fill out a speaker's registration card prior to speaking.
3. The presiding officer shall conduct the proceeding in a way that avoids undue repetition and assures a reliable record on any proposed rulemaking.
4. Any person may file a written submission at an oral proceeding, in addition to an oral presentation.
5. Prior to taking oral presentations, the presiding officer shall summarize the contents of the rule under consideration and the economic impact and small business statements filed with the rule.
6. Prior to the close of the record of the oral proceeding, the presiding officer shall summarize all subsequent rulemaking steps, procedures, and time-frames.
7. The presiding officer shall record the oral proceeding by electronic or other means. At the start of the oral proceeding, the presiding officer shall announce that the proceeding is being recorded.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-106. Petition for Delayed Effective Date

A. A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032(B) shall file a petition with the Department's Director prior to the proposed rule's close of record.

B. A petition for delayed effective date shall contain:
1. The petitioner's name, current address, daytime telephone number, and e-mail address, if available;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
3. A statement describing the effect the rule may have on the petitioner, and the reason why delaying the effective date of a rule to a specified date will lessen or eliminate that effect;
4. A demonstration under A.R.S. § 41-1032(B) that good cause exists for, and the public interest will not be harmed by, the later effective date; and
5. The signature of the petitioner.

C. The Department shall notify the petitioner in writing, by mail or electronically, of the Department's determination regarding the petition within 60 days of receipt of the petition.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

R6-1-107. Written Criticisms of Existing Rules

The Department shall retain written criticisms of existing rules that have been filed with the Department and shall consider such writings when conducting the five-year review required by A.R.S. § 41-1056.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 2757, effective November 18, 2017 (Supp. 17-3).

ARTICLE 2. DEBT SETOFF

R6-1-201. Definitions

In this article, unless otherwise specified:
1. "Debtor" means a person indebted to the Department.
2. "Department" means the Department of Economic Security.
3. "Request for review" means a request for agency-level review filed with the Department pursuant to A.R.S. §§ 5-575(C) or 42-1122(H), but excludes claims made pursuant to A.R.S. § 42-1122(S).

Historical Note
Adopted as an emergency effective March 2, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days. Former Section R6-1-101 adopted as an emergency effective March 2, 1984 now adopted without change as a permanent rule effective April 30, 1984 (Supp. 84-2). Former Section R6-1-101 renumbered without change as R6-1-201 (Supp. 88-3). Amended and subsections (B)(2) through (C) renumbered to Section R6-1-202 effective December 22, 1993 (Supp. 93-4). R6-1-201 renumbered to R6-1-202; new Section R6-1-201 made by final rulemaking at 24 A.A.R. 1415, effective June 19, 2018 (Supp. 18-2).

R6-1-202. Request for Review of Debt Setoff

A. A Debtor who has had all or part of their debt set off pursuant to A.R.S. §§ 5-575 or 42-1122 may file a request for review of the setoff.

B. To be considered by the Department, the request for review shall:
1. Be in writing;
2. Be received by the Department office that set off the debt, at the address indicated on the notice of debt setoff no later than 30 days after the date of the notice of debt setoff;
3. List any prior judicial or administrative proceedings regarding the debt;
4. Set forth, with specificity, all reasons why the setoff is inaccurate or improper;
5. Be signed by the Debtor or the Debtor's authorized representative; and
6. Include an attached complete copy of the notice of debt setoff from which review is sought.

C. As used in this Section, the date of the notice of debt setoff shall be the following dates, as applicable to the Debtor:
1. The date that the State Lottery Office gives the Debtor a written statement of winnings indicating the amount of the setoff; or
2. The mailing date of the written notice generated by the Department, advising the Debtor of the setoff.

D. Notwithstanding subsection (B), the Department may consider a timely request for review which does not include all the documentation listed in subsection (B) if:
1. The Debtor has good cause for failing to provide the information, and
2. The lack of information does not substantially prejudice the Department's ability to evaluate the request.

Historical Note
Renumbered from R6-1-201(B)(2) through (C) and amended effective December 22, 1993 (Supp. 93-4). R6-1-202 renumbered to R6-1-203; new Section R6-1-202 renumbered from R6-1-201 and amended by final rulemaking at 24 A.A.R. 1415, effective June 19, 2018

(Supp. 18-2).

R6-1-203. Departmental Review of Debt Setoff

A. The Director of the Department shall appoint representatives who shall conduct the review in accordance with A.R.S. §§ 5-575 or 42-1122, as applicable, and in a manner that will observe the substantial rights of the Debtor.

B. Unless otherwise prohibited by law, the Department may correct clerical errors that have occurred in the administration of the debt setoff.

C. In reviewing the debt setoff, the Department shall consider all relevant evidence, including, without limitation, evidence submitted by the Debtor and the documents and records in the Department's files.

D. The Department may dispose of a request for review by:
1. Dismissal, if the Debtor fails to comply with R6-1-202;
2. Withdrawal, if the Debtor withdraws the request for review in writing at any time before the Department issues a decision; or
3. Decision.

E. Every review decision shall be in writing and shall be mailed to the last known address of the Debtor or the Debtor's authorized representative.

F. The Department's decision is final unless the debtor files a petition for judicial review with the Superior Court within 35 days of the date the decision is mailed to the debtor as provided in A.R.S. § 12-904. A debtor who files a petition for review shall mail a copy to the Department office which issued the decision.

Historical Note

New Section R6-1-203 renumbered from R6-1-202 and amended by final rulemaking at 24 A.A.R. 1415, effective June 19, 2018 (Supp. 18-2).

ARTICLE 3. EXPIRED

Article 3, consisting of R6-1-301 through R6-1-309, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-301. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-302. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-303. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-304. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-305. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-306. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-307. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-308. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-309. Expired

Historical Note

Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

ARTICLE 4. FINGERPRINTING

R6-1-401. Definitions

In this Article, unless the context otherwise requires:
1. "Certification" means a status conferred by the Department upon personnel who have submitted required materials for fingerprint clearance, and who have been accordingly cleared, permitting them to provide services either with supervision or without supervision to juveniles.
2. "Certification form" means the notarized criminal history disclosure submitted to the Department as required by A.R.S. § 46-141(D).
3. "Department" means the Arizona Department of Economic Security.
4. "Direct visual supervision" means within sight and hearing of provider personnel with full certification.
5. "Full certification" means that personnel are certified to provide service directly to juveniles without supervision.
6. "Juvenile" means an individual who is under 18 years of age.
7. "License" means the whole or part of a Department permit, certificate, registration, or similar form of permission or authorization required by law but shall not include foster home licenses, child care home certifications, adoptive home certifications or licenses for facilities for developmentally disabled persons.
8. "Provider" means a federally recognized Indian tribe, county, political subdivision, military base, person, corporation, partnership or association with whom the

Department contracts, or which the Department licenses, to provide services.

9. "Provider personnel" or "personnel" means paid or unpaid persons who have direct contact with juveniles and provide direct services to juveniles for a provider, including consultants, subcontractors, volunteers, students and persons otherwise affiliated with the provider.
10. "Restricted certification" means that personnel are certified to provide services to juveniles with supervision as authorized by A.R.S. § 46-141(G).
11. "Sanction" means denial, cancellation, revocation or termination of a license or contract.
12. "Services directly to juveniles" means in-person interaction between the personnel and the juvenile client.
13. "Supervision" means within sight and hearing at all times of a supervisor with full certification when providing services of any nature directly to juveniles, including psychological, medical or any ancillary services.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-402. Provider Responsibilities

A. A provider shall submit to the Department the fingerprints, the completed certification form, the processing fee and any other documents required by the Department before provider personnel are allowed or required to provide services directly to juveniles.

B. If a provider does not submit all the documents or the certification form required in subsection (A) above or submits incomplete documents, the Department shall return the documents to the provider. The provider shall prohibit personnel from providing services directly to juveniles until all the documents are completed and resubmitted to the Department.

C. If personnel have been certified by the Department of Health Services, the Supreme Court or the Department of Youth Treatment and Rehabilitation to work for the provider, the provider shall submit a copy of the certification to the Department. That certification shall satisfy the certification requirements of this Article.

D. A provider shall maintain a list of names of volunteers who will work only under direct visual supervision. The list shall be made available to the Department upon request.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-403. Exempt Providers

A federally recognized Indian tribe or military base provider is exempt from the provisions of this Article except R6-1-405 if the provider certifies in accordance with A.R.S. § 46-141(H).

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-404. Effect of Certification Form Disclosures

A. Personnel who disclose conviction of, commission of or pending trial for an offense listed in A.R.S. § 46-141(F) shall not be allowed to provide services to juveniles.

B. Personnel who disclose a conviction of or a pending trial for an offense listed in A.R.S. § 46-141(G) shall not be allowed to provide services directly to juveniles without supervision pending completion of the criminal history verification. Services may be provided with supervision.

C. Personnel who disclose no convictions, pending trials or commission of any offenses listed in A.R.S. § 46-141(D) may provide services directly to juveniles without supervision pending completion of the criminal history verification.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-405. Costs

If the Department allows the costs of fingerprint checks as an allowable cost when negotiating a contract, the provider shall not then charge the cost of fingerprinting to its personnel.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-406. Certification and Sanctions

A. The Department shall grant certification to provider personnel whose criminal records check discloses no criminal history as proscribed by A.R.S. § 46-141.

B. The Department shall deny certification to personnel who disclose, or whose criminal history check shows, that they have committed, been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(F).

C. The Department shall grant restricted certification to personnel who disclose, or whose criminal records check shows, that they have been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(G).

D. Personnel who are awaiting trial on any of the crimes listed in A.R.S. § 46-141, and whose certification is denied or restricted as a result of the pending charges, may, upon a showing of acquittal, dismissal, or conviction of a lesser nonlisted crime, resubmit pursuant to R6-1-402.

E. The Department shall notify the provider and provider's personnel of the denial of certification or the granting of full or restricted certification. A provider which places provider personnel who have disclosed a criminal history on the certification form which would allow only a restricted certification in a job position requiring or allowing the personnel to provide services directly to juveniles without supervision shall be subject to sanction.

F. A provider which allows volunteers who are exempted from the certification requirements by A.R.S. § 46-141(I) to provide services to juveniles without direct visual supervision shall be subject to sanction.

G. A provider which fails to provide direct visual supervision at all times of volunteers exempted from the certification requirements by A.R.S. § 46-141(I) shall be subject to sanction.

H. A provider which fails to provide supervision at all times to personnel granted a restricted certification pursuant to A.R.S. § 46-141 shall be subject to sanction.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-407. Effect of Confirmed Proscribed Criminal History

A. Denial: Upon notification by the Department of denial of certification, the provider shall immediately prohibit those personnel from providing services in any capacity allowing provision of direct services to juveniles, or the employer's license or contract shall be subject to sanction.

B. Restriction: Upon notification by the Department of restricted certification, the provider shall prohibit these personnel from unsupervised contact with juveniles or the provider's license or contract shall be subject to sanction.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-408. Certification Expiration

A. A certification is valid for the full period of time that personnel are continuously employed by, or volunteer for, the provider unless it is revoked.

B. A certification shall be revoked if the Department receives information that provider personnel have been convicted of, committed, or are awaiting trial for an offense listed in A.R.S. § 46-141.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-409. Subsequent Offenses

A. The provider shall notify the Department in writing within three working days after the provider receives information that any person who has been certified has committed, been convicted of, or is awaiting trial for any criminal offense listed in A.R.S. § 46-141(F).
1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing contact with juveniles.

B. The provider shall notify the Department, in writing, within three working days after the provider receives information that any person who has been certified has been convicted of, or is awaiting trial for, any criminal offense listed in A.R.S. § 46-141(G).
1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing unsupervised contact with juveniles.

C. Failure to notify the Department as required in subsections (A) and (B) above shall subject the provider to sanction.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

ARTICLE 5. CIVIL RIGHTS

R6-1-501. Civil Rights

A. Statement of compliance: Pursuant to the provisions of the Civil Rights Act of 1964, no person in the state of Arizona will be excluded from participation in, denied the benefits of, or subjected to discrimination under assistance payments programs on the basis of race, color, religion, sex, or national origin. The Department shall administer such programs in accordance with the laws, regulations, policies, and practices enumerated in the subsections below.

B. Definition of compliance: The Department shall follow policies and practices including, but not limited to, those described below.
1. No individual will, on the basis of race, color, religion, sex, or national origin, be denied any benefit provided under an assistance payment program, or be provided a benefit which is different, or in a different manner, from that provided to others under the same program.
2. No individual will, on the basis of race, color, religion, sex, or national origin, be subjected to segregation or separate treatment in any manner related to receipt of any benefit under an assistance payments program, nor will an individual be restricted in any way from any advantage or privilege enjoyed by others receiving benefits under the same program. This includes any distinction with respect to spaces provided for service, waiting rooms, and restrooms. Neither will separate times be set aside on the basis of race, color, religion, sex, or national origin for the provision of assistance.
3. Employees of the Department will not be assigned caseloads or clientele on the basis of race, color, religion, sex, or national origin of the persons being assisted.
4. Criteria or methods of administration shall not subject individuals to discrimination or defeat or substantially impair the objectives of an assistance payments program on the basis of the individual's race, color, religion, sex, or national origin.
5. The Department shall conduct assistance payments programs in accordance with the requirements of existing laws and regulations, which shall extend not only to those activities which are conducted directly by the Department but also to all related activities which are conducted by other agencies, institutions, organizations, political subdivisions, and vendors.
6. The Department shall maintain records and submit reports as required by federal authorities to assure compliance with regulations. During normal business hours of the Department, access will be permitted to its facilities, records, and other sources of information as may be pertinent to as certain compliance with regulations.
7. The Department will make available to applicants, recipients, and public officials that information required by federal authorities to appraise such persons of the protections against discrimination assured them by the Civil Rights Act of 1964.

C. Methods of administration.
1. The Department shall inform and instruct its staff of obligations under the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance by:
   a. Making copies of all pertinent documents available to the entire staff.
   b. Conducting, as a regular part of the In-service Training Program:
      i. Meetings to explain to all staff personnel the intent and meaning of such documents and to instruct them in their obligation to carry out the policies contained therein.
      ii. Orientation of new staff personnel regarding their responsibilities to comply with the Civil Rights Act of 1964.
      iii. Periodic reminders of Civil Rights Act requirements in appropriate staff meetings and memoranda or other official correspondence.
      iv. Cultural awareness training to all staff personnel concerning ethnic differences among various groups residing in Arizona who comprise the Department's clientele.
      v. Constant review of practices and policies to assure that no individual is discriminated against because of race, color, religion, sex, or natural origin.
2. The Department will inform and instruct other appropriate agencies, institutions, organizations, political subdivisions, and vendors of their obligations to comply with the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance filed by the Department as a condition to their initial or continued financial participation in any assistance payments program. This will be accomplished by:
   a. Making clear the requirements of the Civil Rights Act and implementing regulations and policies to fulfill these requirements.
   b. Determining that the agency, institution, organization, political subdivision, or vendor has executed an assurance in the form prescribed by federal authorities which is currently effective and applicable to the program under which the activity is conducted. This includes the use of memoranda which verifies spe-

cific obligations and undertakings or certification of compliance on each voucher presented to the Department for payment. Regular on-the-spot checks will be made by the Department's staff to assure compliance by any other agency, institution, organization, political subdivision, or vendor participating in an assistance payments program.

c. The Department will inform its clientele and other interested persons that financial assistance and other program benefits are provided on a non-discriminatory basis and of their right to file a complaint with the Department, the federal authorities, or both, if they believe that discrimination on the basis of race, color, religion, sex, or national origin is practiced. Informing clientele will be accomplished by furnishing a written notice and the Statement of Compliance to all clientele and other interested persons.

d. All complaints alleging discrimination because of race, color, religion, sex, or national origin shall be filed in writing, shall describe the type of discrimination alleged, indicate when and where such alleged discrimination occurred, and describe any pertinent facts and circumstances relating to the alleged discrimination. The complaint shall be signed by the complainant. All complaints shall be addressed to the Director of the Department of Economic Security, who will initiate a thorough investigation through established procedure. After the complaint has been investigated, the Director shall determine whether or not any discriminatory practice has occurred. If appropriate, the Director will take such action as the Director deems necessary to correct past practices and prevent future recurrence of such discrimination. The Department shall cease making referrals or vendor payments to any entity which does not fully comply with the Civil Rights Act of 1964. The complainant shall be advised in writing of the Department's determination regarding the complaint.

i. The Department will maintain a file of approved facilities, agencies, resources, and vendors who have executed Statements of Compliance with the Civil Rights Act of 1964. Verified complaints will be referred by the Department for corrective action. If, after a reasonable time, such corrective action has not been taken, the Department will advise and remove the facility, agency, or vendor from its approved list of resources.

ii. The Department will maintain adequate records to show action taken as a result of each complaint and will make this information available to appropriate federal authorities.

iii. Department employees who receive anonymous verbal complaints are required to report them to their supervisor. The supervisor will decide upon further action to be taken in such cases.

e. At least once each year, or more frequently for those cases in which discriminatory practices are alleged or suspected, a representative of the Department will visit institutions, organizations, political subdivisions, or vendors who participate in a program to verify that their practices conform to the Civil Rights Act and the regulations issued pursuant thereto and as reflected in the Statement of Compliance. The Department will periodically determine if discriminatory practices are engaged in by its personnel and will take corrective action as required to ensure that actions are in compliance with the Civil Rights Act and regulations issued pursuant thereto, as reflected in the Statement of Compliance.

f. Policies and procedures will provide effective verbal and written communication with non-English-speaking applicants and recipients. These policies and procedures will be made known to all Department employees. Supervisors will be required to ensure that their staff complies with such policies and procedures.

g. Assistance payments program information will be disseminated to the general public, using appropriate and effective media to reach minority populations.

h. Department advisory committees will include representatives of racial and ethnic minority groups to the extent feasible.

i. The Department shall provide data revealing the extent to which members of minority groups are beneficiaries of, participants in, or both, federally funded assistance payments programs.

Historical Note

R6-1-501 recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).