



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

[R15-161]

**PREAMBLE**

- | <b><u>1. Articles, Parts, and Sections Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| 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: 21 A.A.R. 2784, November 13, 2015 (*in this issue*).



**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) 774-9350  
Fax: (602) 244-0477  
E-mail: lmann@azpost.gov  
Web site: www.azpost.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) 774-9350  
Fax: (602) 244-0477  
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Web site: www.azpost.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: Tuesday, December 15, 2015  
Time: 12:00 p.m.  
Location: 2643 E. University  
Phoenix, AZ 85034

**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**

Section

- 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**

Section

- 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.

**R13-4-102. 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 of 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, ~~finger~~ print ~~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 ~~fingerpr**int** 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 ~~fingerpr**int** 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 phy-~~



sician 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, misfeasance, or nonfeasance 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;
- 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 ~~per-~~ son 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.
- c. ~~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)(c) 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~~
  - e. ~~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.~~ 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 an 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. ~~A~~ 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.
- ~~The Department shall process an applicant 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.
  - ~~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:
    - A computerized criminal history check has been made and the results are on file with the Department, and
    - The applicant meets all other requirements of this Section and R13-4-202.
  - ~~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

- 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.
- 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:
  - A copy of reports submitted under subsection (A);
  - All written documentation obtained or recorded under R13-4-202 and R13-4-203; and
  - A record of all advanced training, specialized training, continuing education, and firearms qualification conducted under R13-4-206 and R13-4-207.
- Record retention. The Department shall maintain the records required by this Section as follows:
  - For applicants investigated under R13-4-203 who are not appointed: two years; and
  - 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

- 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.
- Curricula or training material approval time frames time frames.
  - 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.
    - Administrative completeness time frame time frame: 60 days.
    - Substantive review time frame time frame: 60 days.
    - Overall time frame time frame: 120 days.
  - 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.
    - 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.
    - 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





Phoenix, AZ 85007

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E-mail: Larry.Gast@azdosh.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:**

The Industrial Commission of Arizona is amending the rules relating to safety standards in the construction industry to incorporate by reference recent final federal rules. The Arizona Division of Occupational Safety and Health (ADOSH), part of the Industrial Commission of Arizona, is required to adopt standards that are at least as effective as those adopted by federal OSHA (the U.S. Department of Labor). The amendments apply to updating occupational safety and health standards deadline for employers to ensure that crane operators are certified by three years, until November 10, 2017 and adding a new subpart to provide protections to employees working in confined spaces in construction.

The amendments to the federal standards extending the deadline for employers to ensure that crane operators are certified by three years, until November 10, 2017, as published in the Federal Register at 79 FR 57785-57798 on September 26, 2014. The federal final rule became effective on November 9, 2014. While operator certification offered safety benefits, most current certifications lack the required capacity factor and would therefore not comply with the final cranes standard. Without an extension the construction industry would face a crane operator shortage in the coming years, as there will not be enough time for employers to certify their operators in time for the industry to continue performing work without disruption, OSHA concurred it was crucial for an extension to be granted. OSHA also is extending the enforcement date for crane operator certification for three years from November 10, 2014, to November 10, 2017.

The amendments to the federal standards related to OSHA adding a new subpart to provide protections to employees working in confined spaces in construction as published in the Federal Register at 80 FR 25365-25526. The federal final rule became effective on August 3, 2015. This new subpart replaces OSHA's one training requirement for confined space work with a comprehensive standard that includes a permit program designed to protect employees from exposure to many hazards associated with work in confined spaces, including atmospheric and physical hazards. The final rule is similar in content and organization to the general industry confined spaces standard, but also incorporates several provisions from the proposed rule to address construction-specific hazards, accounts for advancements in technology, and improves enforceability of the requirements.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not 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:**

The agency did not review or rely on any study relevant to the rules.

**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 Industrial Commission anticipates that the rule change related to incorporating by reference the recent amendments to federal safety standards related to crane operator certification will have little economic impact. According to federal OSHA estimates that this rule will have a cost savings for employers of \$21.4 million per year for the three years of the extension, this final rule is not economically significant within the meaning of Executive Order 12866. Delaying the operator certification requirement defers a regulatory requirement and should impose no new costs on employers. There will, however, be continuing employer costs for extending the requirement to assess operators under existing § 1926.1427(k)(2); if OSHA had not extended these requirements, they would have expired in 2014 and employers would not have incurred these costs after 2014. Because federal OSHA estimates the cost of any single assessment to be no higher than \$307.48, it believes the economic impact will be minimal on any employer. Most employers will have savings resulting from the three-year extension, particularly employers that planned to pay for operator certification in the year before the original 2014 deadline. The only entities likely to see a net cost will be entities that planned to hire an operator with compliant certification after November 10, 2014. Without the three-year extension, these entities will have no separate assessment duty, but under the three-year extension they will have the expense involved in assessing operator competency. As noted above, however, OSHA estimated the cost for such assessments (for operators with a type and capacity certification) to be \$76.87 per certified operator.

In regards to Confined Space in Construction, OSHA estimates that the final rule will result in yearly compliance costs of \$60.3 million (using a discount rate of 7 percent), and yearly safety benefits, based on lives saved and injuries prevented, of \$93.6 million. Therefore, the benefits of this final standard outweigh the costs of complying with its provisions, yielding net benefits of \$33.3 million a year. Compliance with the final standard will result in



approximately \$1.55 of benefits for every dollar of costs. Based on the analysis, federal OSHA concludes that this final standard is technologically and economically feasible for all affected industries. OSHA concludes that compliance with the requirements of the final rule is economically feasible in every affected industry sector.

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

Name: Larry Gast, ADOSH Assistant Director  
Address: Industrial Commission of Arizona  
Division of Occupational Safety and Health  
800 W. Washington St., Suite 203  
Phoenix, AZ. 85007  
Telephone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: Larry.Gast@azdosh.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:**

Written comments can be submitted to the address listed in item 9 by the close of the comment period, which is at 5:00 p.m. on December 14, 2015. An oral proceeding is scheduled for December 14, 2015 at 9:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington St., Room 206, Phoenix, AZ, 85007.

**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:**

Not applicable

**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 rules do not require issuance of a regulatory permit or license.

**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:**

Not applicable

**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:**

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction with amendments as of August 3, 2015. These incorporation(s) by reference will appear in R20-5-601.

**13. The full text of the rules follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

Section

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926**

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of ~~July 10, 2014~~ August 3, 2015 incorporated by reference. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~July 10, 2014~~ August 3, 2015.



## NOTICE OF PROPOSED RULEMAKING

### TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

#### CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R15-163]

#### PREAMBLE

- | <b><u>1. Articles, Parts, and Sections Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R20-5-1301  | New Section                     |
| R20-5-1302  | New Section                     |
| R20-5-1303  | New Section                     |
| R20-5-1304  | New Section                     |
| R20-5-1305  | New Section                     |
| R20-5-1306  | New Section                     |
| R20-5-1307  | New Section                     |
| R20-5-1308  | New Section                     |
| R20-5-1309  | New Section                     |
| R20-5-1310  | New Section                     |
| R20-5-1311  | New Section                     |
| R20-5-1312  | New Section                     |
- 2. Citations to agency's statutory rulemaking authority to include the authorizing statute and the implementing statute:**  
 Authorizing statute: A.R.S. § 23-107(A)(1)  
 Implementing statute: A.R.S. § 23-1062.03
- 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: 21 A.A.R. 2475, October 23, 2015.
- 4. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Valli Goss, Assistant Chief Counsel  
 Address: Industrial Commission of Arizona  
 800 W. Washington St., Suite 303  
 Phoenix, AZ 85007  
 Telephone: (602) 542-5948  
 Fax: (602) 542-6783  
 E-mail: valli.goss@azica.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:**  
 Arizona Revised Statutes § 23-1062.03 requires the Industrial Commission of Arizona to develop and implement a process for the use of evidence based medical treatment guidelines to treat injured workers within the context of Arizona's workers' compensation system. The Industrial Commission is making these rules to comply with that legislative directive. These rules, which implement a process for the use of treatment guidelines, are intended to improve the quality and outcomes of medical care, and to improve the efficiency and effectiveness of the process under which that medical care is provided to injured workers.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not 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:**  
 Not applicable
- 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:**  
 There will be some costs incurred by the participants in the workers' compensation system. Participants include medical providers, payers (insurance carriers and self-insured employers), attorneys, and the Industrial Commission of Arizona. All participants will use evidence based medical treatment guidelines published by the Work Loss Data Institute and referred to as "ODG." To access the ODG guidelines, participants may purchase an annual sub-



scription. The cost to purchase an annual subscription in 2015 ranges from \$249.00 to \$499.00, or participants may access the ODG using dedicated computer workstations established at the Industrial Commission at no cost to the user. The 2015 cost to the Commission for each station will be \$325.00. The Industrial Commission has not yet determined how many workstations will be made available because the demand for such access cannot be accurately predicted.

The administrative review process may result in a peer review that will be conducted by a third party vendor who must be URAC accredited. The administrative review process and peer review should reduce delays in providing employees with reasonably required medical treatment, improve the processing of their workers' compensation claims, and reduce litigation time and cost. The cost for the peer review will be paid by the payer and the 2015 cost for a peer review ranges from \$325.00 to \$700.00 per peer review. The precise cost will depend on the complexity of the proposed medical treatment and the number of medical records involved in the peer review.

The Industrial Commission has created a Medical Resource Office (MRO) to administer the Commission's role in the administrative review process. The MRO will require an additional three staff and a program manager for a total number of four new "full time equivalent" positions.

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

Name: Valli Goss, Assistant Chief Counsel  
Address: Industrial Commission of Arizona  
800 W. Washington St., Suite 303  
Phoenix, AZ 85007  
Telephone: (602) 542-5948  
Fax: (602) 542-6783  
E-mail: valli.goss@azica.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:**

Written comments may be submitted to the address listed in item 9 by the close of the comment period, which is at 5:00 p.m. on December 15, 2015. An oral proceeding is scheduled for December 15, 2015 at 9:00 a.m., at the Industrial Commission of Arizona, 800 West Washington Street, first floor auditorium, Phoenix, Arizona, 85007.

**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:**

Not applicable

**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 rules do not require a permit.

**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:**

Not applicable

**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

**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 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. THE INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 13. TREATMENT GUIDELINES**

- Section R20-5-1301. Adoption and Applicability of the Article
- R20-5-1302. Definitions
- R20-5-1303. Provider Request for Pre-Authorization
- R20-5-1304. Payer Denial of Request for Pre-Authorization



R20-5-1305.	<u>Payer Denial of Payment for Provided Treatment or Services</u>
R20-5-1306.	<u>Payer Reversal of Decision to Deny Treatment or Services</u>
R20-5-1307.	<u>Payer Decision, In Whole or In Part</u>
R20-5-1308.	<u>Failure to Comply with Required Time Limits</u>
R20-5-1309.	<u>Payer Decision of Request for Pre-Authorization</u>
R20-5-1310.	<u>Payer Reconsideration of Request for Pre-Authorization</u>
R20-5-1311.	<u>Administrative Review by Commission</u>
R20-5-1312.	<u>Hearing Process</u>

### **ARTICLE 13. TREATMENT GUIDELINES**

#### **R20-5-1301. Adoption and Applicability of the Article**

- A.** The Industrial Commission of Arizona (Commission) has adopted the Work Loss Data Institutes' *Official Disability Guidelines – Treatment in Workers Compensation* (ODG) as the standard reference for evidence based medicine used in treating injured workers within the context of Arizona's workers' compensation system. By adopting and referencing the most recent edition (at the time of treatment), and continuously updated *Official Disability Guidelines*, the Commission can ensure the latest available medical evidence is used in making medical treatment decisions for injured workers. The adoption of the guidelines is limited to the treatment recommendations published therein. Other information or guidelines published or included in the ODG are not adopted and are not subject to this Article, including disability duration, return-to-work pathways, fitness for duty examinations, disability evaluations and certifications, and causation.
- B.** Until further action of the Commission, the guidelines shall apply to and are mandatory in the management of chronic pain and the use of opioids for all stages of pain management. For purposes of this process, chronic pain shall be defined by the guidelines.
- C.** The Commission may modify or change the applicability of the guidelines as described in subsection B if the Commission determines that modification or changing the applicability of the guidelines will 1) improve medical treatment for injured workers, 2) make treatment and claims processing more efficient and cost effective, and 3) the guidelines adequately cover the body parts or conditions. Before taking action to modify or change the applicability of the guidelines, the Commission shall provide an opportunity for public comment and hold a public hearing. A decision of the Commission under this subsection shall be made by a majority vote of a quorum of Commission members present at a public meeting.
- D.** The action taken by the Commission to modify or change the applicability of the guidelines under subsection C shall be published in the minutes of the Commission meeting when such action was taken. The minutes of this action shall be published on the Commission's website and shall be available from the Commission upon request.
- E.** The guidelines shall apply prospectively. Recommendations provided in the guidelines shall apply to medical treatment or services occurring on or after the effective date of this Article.
- F.** This Article applies to all claims filed with the Commission.
- G.** This Article only applies to medical treatment and services for body parts and conditions that have been accepted as compensable.
- H.** The guidelines are to be used as a tool to support clinical decision making and quality health care delivery to injured employees. The guidelines set forth care that is generally considered reasonable and are presumed correct if the guidelines provide recommendations related to the requested treatment or service. This is a rebuttable presumption and reasonable medical care may include deviations from the guidelines. To support a request to deviate from the guidelines, the provider must produce documentation and justification that demonstrates by a preponderance of credible medical evidence a medical basis for departing from the guidelines. Credible medical evidence may include clinical expertise and judgment.
- I.** The Commission shall provide administrative review and oversight of this Article.

#### **R20-5-1302. Definitions**

In this Article, unless the context otherwise requires:

"Act" means the Arizona Workers' Compensation Act, A.R.S. Title 23, Ch. 6, Articles 1 through 11.

"Active Practice" means performing patient care for a minimum of 8 hours per week in one of the 5 preceding years.

"Administrative Law Judge" or "ALJ" means a hearing officer appointed under A.R.S. § 23-108.02.

"Administrative Review" means a process that includes a peer review for pre-authorization of a request for medical treatment or services that has been denied or partially denied by a Payer. The administrative review process will be managed by the Medical Resource Office (MRO) at the Industrial Commission of Arizona.

"American Board of Medical Specialties" means the organization that develops a uniform system for specialty boards to administer examinations for certification of physicians within specific medicine specialties.

"American Osteopathic Association" means the organization that develops a uniform system for specialty boards to administer examinations for certification of osteopathic physicians within specific osteopathic medicine specialties.

"Applicability" means the medical conditions that are covered under this Article and authorized by the Commission under A.A.C. R20-5-1301(F).

"Chronic Pain" means any pain that persists beyond the anticipated time of healing.

"Claim" means the workers' compensation claim filed by the injured employee under the Act.

"Contractor" means an independent peer review organization accredited by URAC.



“Fast Track ALJ Dispute Resolution” or “fast track process” means the voluntary dispute resolution process set forth in R20-5-1314(B).

“International Classification of Diseases Code” or “ICD Code” means a set of medical diagnostic codes that creates a universal language for reporting diseases and injury.

“International Classification of Diseases” or “ICD” means an official list of categories of diseases, physical and mental, that is issued and maintained by the World Health Organization.

“IME” means an independent medical examination” scheduled under R20-5-114.

“Injured Employee” means a person defined in A.R.S. § 23-901(6) whose claim has been accepted for worker’s compensation benefits.

“Medical File Review Opinions” means a formal examination of patient data and medical records for the purpose of determining the need for medical treatment, services or both.

“Payer” means an insurance carrier defined under A.R.S § 23-901(6), a self-insured employer defined in R-20-5-102, a third party administrator, and the Special Fund of the Industrial Commission of Arizona.

“Peer Review” means an independent medical review conducted by a individual meeting the requirements of R20-5-13.

“Pre-Authorization” means a request from a provider to a payer requesting approval to provide medical treatment or services to an injured employee.

“Provider” means a physician as defined in R20-5-102.

“Reconsideration” means a written request to the payer or identified review organization by an injured employee or medical provider to reconsider a previous payer decision to deny medical treatment or services and that identifies the specific justification to support the request.

“Third Party Administrator” or “TPA” means is an organization that processes insurance claims or certain aspects of employee benefit plans for a separate entity.

“Treatment Guidelines” or “guidelines” means medical treatment guidelines that are used as a tool to support clinical decision making and quality health care delivery to injured employees.

“URAC” refers to URAC, a non-profit organization formerly known as the Utilization Review Accreditation Commission.

**R20-5-1303. Provider Request for Pre-Authorization**

- A.** No pre-authorization is required under the Act to ensure payment for reasonably required medical treatment or services. While pre-authorization is not required under the Act, a provider may seek pre-authorization as provided in this subsection.
- B.** A provider shall submit a request for pre-authorization in writing, which shall include the following information:
  1. Patient information (including date of injury, date of birth, and payer claim number);
  2. Diagnosis and ICD code;
  3. Date of request;
  4. Type of request - Initial, Routine, Urgent, or Life Threatening;
  5. A statement of the treatment or services requested. Where appropriate, information about quantity, strength, duration and frequency of the treatment or services should be included. Use of the applicable codes should also be included and will facilitate the process; and
  6. Documentation, if not already provided, that supports the medical necessity and appropriateness of the treatment or services requested, such as office notes and diagnostic reports.
- C.** A provider may submit the request by mail, electronically or by fax.

**R20-5-1304. Payer Denial of Request for Pre-Authorization**

- A.** A payer shall not deny a request for pre-authorization solely because the guidelines do not address the requested treatment or services.
- B.** A payer shall not deny a request for pre-authorization that is supported by the guidelines, unless the payer can rebut the presumption of reasonableness and correctness with a medical or psychological opinion establishing by a preponderance of the evidence that there is a contraindication or significant medical or psychological reason not to authorize the requested treatment or services. Upon request by the provider or injured employee, a denial of pre-authorization in this situation shall be processed as an immediate referral to the Commission for administrative review as provided in R20-5-1312 unless the payer obtains an IME in support of its denial. If the payer obtains an IME which serves as the basis for the denial, then review of the payer’s decision shall be processed as a request for investigation under A.R.S. § 23-1061(J) if filed by the injured employee.

**R20-5-1305. Payer Denial of Payment for Provided Treatment or Services**

- A.** A payer shall not deny payment for provided treatment or services solely because the guidelines do not address the requested treatment or services.
- B.** A payer shall not deny payment for provided treatment or services supported by the guidelines, unless the payer can rebut the presumption of reasonableness and correctness with a medical or psychological opinion establishing by a preponderance of the evidence that there is a medical contraindication or significant medical reason not to pay for the treatment or services.
- C.** A dispute related to a payer’s failure to pay for provided treatment or services may be processed as a request for investi-



gation under A.R.S. § 23-1061(J) if filed by an injured employee.

**R20-5-1306. Payer Reversal of Decision to Deny Treatment or Services**

A payer may reverse its decision to deny treatment or services at any time throughout the process described in this Article. In this situation, the payer's subsequent authorization or agreement to pay for the treatment or services at issue shall end this process.

**R20-5-1307. Payer Decision, In Whole or In Part**

A payer may issue a decision approving or denying a request for pre-authorization in whole, or in part.

**R20-5-1308. Failure to Comply with Required Time Limits**

A payer's failure to comply with the required time limits of this process may be considered unreasonable delay under R20-5-163.

**R20-5-1309. Payer Decision of Request for Pre-Authorization**

- A.** Except as provided in subsection (D), a payer shall communicate to the provider its decision on a request for pre-authorization no later than 10 business days after the request is received. This decision shall comply with the requirements set forth in subsection (H). For purposes of this Section, the 10 business days begins to run the day after the payer receives the request.
- B.** If a payer fails to communicate to a provider its decision on request for pre-authorization within 10 business days, then the payer's failure to take action is deemed a "no response" and the provider or injured employee may submit a request for administrative review directly to the Commission as provided in R20-5-1312.
- C.** If a payer receives a request for pre-authorization that fails to meet the requirements of R20-5-1303, the payer may, in its discretion:
1. Act on the incomplete request for pre-authorization; or
  2. No later than 10 business days after the request is received, notify the provider that the request for pre-authorization is incomplete.
- D.** If, no later than 10 business days after a request for pre-authorization has been received, a payer provides notice to the provider that an IME has been requested under R20-5-114, then the payer's decision on a request for pre-authorization shall be issued no later than 10 business days after the final IME report has been received by the payer. The payer shall provide a copy of the final IME report to the provider upon receipt of the IME report.
- E.** Unless the payer decision was supported by an IME or otherwise falls within subsection R20-5-1304(B), an injured employee or provider may seek reconsideration of a payer decision by submitting a written request to the payer (or review organization identified by the payer) that states the specific reasons and justifications to support the request. If not previously provided, the injured employee or provider shall include supporting medical documentation with their written request.
- F.** An injured employee may seek review of a payer decision that is supported by an IME by requesting an investigation under A.R.S. § 23-1061(J).
- G.** Unless the decision was supported by an IME, an injured employee or provider may seek review of a payer decision issued under R20-5-1304(B) by requesting administrative review by the Commission as provided in R20-5-1312.
- H.** A payer shall include the following information in its written decision to approve or deny the request for pre-authorization to provide treatment or services:
1. The date on which the request for authorization was received;
  2. Patient information, including date of injury, date of birth, payer claim number and Commission claim number;
  3. The date on which an IME was completed, if applicable;
  4. A statement of what has been authorized, including if applicable, a partial authorization;
  5. A statement of explanation if the request for pre-authorization is denied in whole, or in part, which should include the medical reason supporting the payer's decision;
  6. A statement of the process under which a provider or injured employee may request reconsideration or review of the payer's denial, in whole or in part, of a request for authorization, which shall include the following information:
    - a. For a decision that is issued without obtaining an IME that is not subject to R20-5-1304(B):

"If you wish to request reconsideration of the decision regarding your request for authorization to provide treatment or services, you must send a written request for reconsideration to:

      - Name of Payer or Review Organization Identified by Payer
      - Address
      - Phone
      - Fax
      - E-mail

You must include the specific reason and justification to support your request. Please include additional supporting medical documentation if not previously provided."
    - b. For a decision that is supported by an IME:

"If you wish review of the decision regarding your request for authorization to provide treatment or services, then the injured employee is required to file a request for investigation under A.R.S. § 23-1061(J)."
    - c. For a decision that is issued without obtaining an IME that is subject to subsection R20-5-1304(B):



“If you disagree with this decision and wish to request review by the Industrial Commission of Arizona, then you may submit a request for administrative review under R20-5-1312 to:

Industrial Commission of Arizona  
Attn: Medical Resource Office, Suite 305  
Address  
Commission Telephone Number.

The provider shall file this request promptly and include the following information: patient information, including name, address, payer claim number, Commission claim number, date of injury; Diagnosis or ICD code; employer, insurance carrier or TPA information; provider information; information pertaining to request for treatment, including the justification for treatment, applicable treatment guideline or guidelines; denial of treatment by payer; copies of relevant medical information or records, and; whether the request for medical treatment or services involves a request for urgent care or a life-threatening condition.”

**I.** A payer shall provide a copy of its written decision to deny treatment or services to the injured employee.

**R20-5-1310. Payer Reconsideration of Request for Pre-Authorization**

**A.** Except as provided in subsection (C), a payer shall communicate to the provider its decision on a request for reconsideration no later than 10 business days after the request is received. This decision shall comply with the requirements set forth in subsection (E). For purposes of this subsection, the 10 business days begins to run the day after the payer receives the request for review.

**B.** If a payer fails to respond to a request for reconsideration within 10 business days, the provider or injured employee may submit a request for administrative review directly to the Commission as provided in R20-5-1312.

**C.** If, no later than 10 business days after a request for reconsideration has been received, a payer provides notice to the provider that an IME has been requested under R20-5-114, then the payer’s decision on a request for reconsideration shall be issued no later than 10 business days after the final IME report has been received by the payer. The payer shall provide a copy of the final IME report to the provider upon receipt of the report.

**D.** Commission Review of Payer Reconsideration Decision.

**1.** An injured employee or provider may seek review of a payer reconsideration decision by requesting an administrative review by the Commission as provided in R20-5-1312 unless the payer decision was supported by an IME.

**2.** An injured employee may seek review of a payer reconsideration decision that is supported by an IME by requesting an investigation under A.R.S. § 23-1061(J).

**E.** A payer shall include the following information in its written decision to approve or deny, in whole or in part, a request for reconsideration of a denial of pre-authorization:

**1.** The date on which the request for reconsideration was received;

**2.** Patient information, including date of injury, date of birth, payer claim number and Commission claim number;

**3.** The date on which an IME was completed, if applicable;

**4.** A statement of what has been authorized including, if applicable, a partial authorization;

**5.** A statement of explanation if the request for treatment is denied, in whole or in part; and

**6.** A statement of the process under which a provider or injured employee may request Commission review of the payer’s denial, in whole or in part, of a request for pre-authorization, which shall include the following information:

**a.** For a reconsideration decision that is issued without obtaining an IME:

“If you disagree with this reconsideration decision and wish to request review by the Commission, then you may submit a request for administrative review under R20-5-1312 to:

Industrial Commission of Arizona  
Attn: Medical Resource Office  
Address  
Commission Telephone Number.

The provider shall file this request promptly and include the following information: Patient information, name, address, payer claim number, and Commission claim number, date of injury; Diagnosis, ICD code; employer, insurance carrier or TPA information; provider information; information pertaining to treatment request and justification for treatment, applicable treatment guideline and denial of treatment by payer; copies of relevant medical information or records; copies of relevant documentation related to the payer reconsideration decision, and; whether the request for medical treatment or services involves a request for urgent care or a life-threatening condition.”

**b.** For reconsideration of a decision that is supported by an IME:

“If you disagree with this reconsideration decision and wish review by the Commission, then the injured employee is required to file a request for investigation under A.R.S. 23-1061(J).”

**B.** A payer shall provide a copy of its written reconsideration decision to deny treatment or services to the injured employee.

**R20-5-1311. Administrative Review by Commission**

**A.** Until further action of the Commission under R20-5-1301(C), administrative review under this Article is limited to requests for medical treatment or services related to the management of chronic pain or the use of opioids for all stages



- of pain management.
- B.** A request for administrative review shall be in writing and submitted by mail, electronically or by fax. The request shall include the following information:
1. Identifying information of the injured employee and claim, including the injured employee's name, address, commission claim number, and date of injury;
  2. Diagnosis and ICD code;
  3. Identifying information of the employer, insurance carrier or TPA;
  4. Identifying information of the Provider;
  5. Information pertaining to request for treatment, such as the justification for treatment, applicable treatment guideline and, if applicable, the payer's denial of treatment;
  6. Copies of relevant medical information or records;
  7. Copies of documentation related to the payer's decision or non-response; and
  8. Whether the request for medical treatment or services involves a request for urgent care or a life-threatening condition.
- C.** Upon receipt of a request for administrative review, the Commission shall determine whether the administrative review is available under this Article.
1. If administrative review is not available, then no later than three business day after receiving a request for administrative review, the Commission shall send notice to the injured employee and payer that administrative review is not available.
  2. If administrative review is available, then no later than three business day after receiving the request, the Commission shall send notice to the payer that a request for administrative review has been received and provide information on how to participate in the process.
- D.** The administrative review conducted under this Section shall apply the guidelines as described in this Article and include a peer review performed by an individual meeting the requirements of subsection (I). The peer review shall consist of a records review and, when possible as described in subsection (I)(5), a conversation between the provider and individual conducting the peer review.
- E.** The Commission may enter into an agreement with one of more contractors, who shall be accredited by the Utilization Review Accreditation Commission, to provide the review described in subsection R20-5-1311(D).
- F.** The payer shall pay for the costs of the peer review conducted by the contractor.
- G.** To assist in its review, the Commission or its contractor may request or receive additional information and documentation from the provider, injured employee or payer, who shall cooperate and provide the Commission or its contractor with any necessary medical information, including information pertaining to the payer's decision.
- H.** Before the Commission issues a determination denying the request for treatment or services, a good faith effort shall be made to conduct a peer review with the provider requesting authorization to perform the treatment or services.
- I.** The individual conducting the peer review shall:
1. Hold an active, unrestricted license or certification to practice medicine or health profession and be involved in the active practice of medicine or health profession during the 5 preceding years. For purposes of this subsection, "active practice" means performing patient care for a minimum of 8 hours per week in one of the five preceding years;
  2. Be licensed in Arizona, unless the Commission or its contractor is unable to find such an individual, in which case the peer review may be conducted by an individual who is licensed in another state of the United States and who meets the other requirements of this subsection;
  3. For a review of a request from an allopathic or osteopathic physician, nurse practitioner, physician assistant, or other mid-level provider, hold a current certification from the American Board of Medical Specialties or the American Osteopathic Association in the area or areas appropriate to the condition, procedure or treatment under review;
  4. Be in the same profession and the same specialty or subspecialty as typically performs or prescribes the medical procedure or treatment requested;
  5. Make a good faith effort to contact the provider requesting the pre-authorization. This good faith effort shall include making telephone contact during the provider's normal business hours and offering to schedule the peer review at a time convenient for the provider.
- J.** A provider may bill the payer for time spent participating in a peer review under this Section.
- K.** The Commission shall issue a written determination of its review that contains the name and title of the person, whether Commission or contractor that conducted the review and includes the following information:
1. Whether the request for treatment or services is authorized or denied, in whole or in part;
  2. The information reviewed;
  3. The principle reason for the decision; and
  4. The clinical basis and rationale for the decision.
- L.** An interested party dissatisfied with the administrative review determination may request that the dispute be referred to the Commission's Administrative Law Judge Division for hearing. This request for hearing shall:
1. Be in writing;
  2. Filed no later than 10 business days after the administrative review determination is issued; and



- 3. State whether the party requests to participate in the Fast Track ALJ Dispute Resolution Program by stipulation, or declines to participate in the Fast Track ALJ Dispute Resolution Program.
- M.** If a timely request for hearing is filed, the administrative review determination is deemed null and void and shall serve no evidentiary purpose.
- N.** The information provided by the parties under this Section and the determination issued by the Commission shall become a part of the Commission claims file for the injured employee.

**R20-5-1312. Hearing Process**

- A.** A referral of a request for hearing under R20-5-1311(L) shall be processed as provided for in the Act unless all parties agree to participate in the fast track process.
- B.** The following applies only to the Fast Track ALJ Dispute Resolution Program:
  - 1. Parties must agree to participate in the Fast Track Administrative Law Judge Dispute Resolution Program with the understanding that a short form decision will be issued.
  - 2. Review by the presiding ALJ shall be limited to the treatment or service dispute considered at the administrative review under Section 1311.
  - 3. The presiding ALJ shall issue a notice of hearing within 10 business days of the receipt of fully executed agreement to participate and certificate of readiness.
  - 4. The hearing shall be held within 30 calendar days from the day that the notice of hearing is issued to the extent practicable.
  - 5. Discovery is limited to five interrogatories and no depositions are permitted.
  - 6. The presiding judge shall take all lay witness testimony at the time of the scheduled hearing and will not hold any further hearings.
  - 7. The presiding ALJ shall consider medical evidence in the form of written reports only; no live medical testimony shall be taken.
  - 8. Medical file review opinions shall be deemed to constitute substantial evidence to support the requested treatment or service.
  - 9. All documentary evidence shall be submitted no later than 10 business days before the scheduled hearing.
  - 10. The hearing shall be recorded, but not transcribed, unless one or more of the parties files a request for review under A.R.S. § 23-942 and A.R.S. § 23-943.
  - 11. The ALJ shall issue a short form decision within five business days after the matter is deemed submitted.