

TRAFFIC SURVIVAL SCHOOL AND QUALIFIED INSTRUCTOR COMPLIANCE REQUIREMENTS

Summary of Changes

All references to letters of concern were removed from Section A and replaced with civil penalty and hearing requirements. Sections C, D, and F were updated to include a civil penalty.

Purpose

To provide information regarding non-compliance issues and associated corrective action procedures.

Authority

Laws 2018, Chapter 307, HB2455, effective August 3, 2018, A.R.S. §§ 28-3414, 28-3416 through 28-3418, Title 12, Chapter 7, Article 6, A.A.C. R17-5-302, R17-5-306, R17-5-308, R17-5-311, R-17-5-312, R17-5-317, R17-5-318, R17-5-321, R17-5-322, and R17-5-323.

Policy

- A. A Traffic Survival School (TSS) and each qualified Instructor shall comply with statute and administrative rule. Non-compliance may result in corrective action. The Motor Vehicle Division (MVD) shall determine the type of corrective action based upon the severity of non-compliance, the record of the school and any other relevant information. Civil penalties will be imposed at the discretion of the Division and approved by the Division's Deputy Director. Three violations within a calendar year will result in civil penalties and a hearing to take action against the school license.
1. The Division upon notice of a violation against a TSS will contact the TSS with a formal letter of inquiry regarding the alleged violation. The TSS has 10 calendar days to respond to the Division.
 2. Based on the TSS response to the alleged violation, a civil penalty may be imposed on the TSS. The TSS will receive a notice of civil penalty and will be provided with payment instructions.
 - a. 1st violation will result in a \$300 civil penalty.
 - b. 2nd violation will result in a \$600 civil penalty and 90 days of probation.
 3. A third violation will result in a corrective action against the TSS license through a hearing process.
 4. Nonpayment of a civil penalty within 30 days will result in a suspension of the TSS license until payment is made and could result in a hearing.

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Note: **Non-compliance may result** in administrative probation, suspension, revocation or cancellation of a license.

B. Specific violations may include but are not limited to:

1. Violations of Arizona Revised Statute (A.R.S.).
2. Violations of Arizona Administrative Code (A.A.C.).
3. Releasing information in violation of Arizona Revised Statutes (A.R.S.).
4. Failure to comply with the MVD record retention schedule, as required.
5. Failure to allow Arizona Department of Transportation, MVD, the Division's authorized contractor, and/or a law enforcement agency complete and unrestricted access to records, as required.
6. Multiple or repeated audit findings.
7. Failure to maintain records, as required.
8. Failure to secure supporting documents, as required.
9. Failure to notify the Division's authorized contractor of a change in personnel, as required.
10. Failure to maintain adequate staffing levels.
11. Excessive customer complaints received by the Division's authorized contractor.
12. Failure to notify the Division's authorized contractor that an instructor has been convicted of a felony, when known.
13. Failure to notify the Division's authorized contractor within 10 days of notice of suspension, cancellation, or revocation of a fingerprint clearance card.
14. Failure to maintain professional conduct.

C. When the Division's authorized contractor has reasonable cause to believe that a licensed TSS has violated or is violating a law or rule of this State, the Division may immediately issue and serve the licensee, by personal delivery, Email or first class mail at the business address of record, **a civil penalty or** a Cease and Desist Order requiring the licensee to immediately cease and desist from further engaging in the business or the prohibited activity.

D. The Division, after **issuing a civil penalty or** conducting a hearing for the licensee or applicant, may refuse to issue or renew the license for a school, agent or instructor in any case where the Division finds that the licensee or applicant has not complied with, or has knowingly violated, any provision of A.R.S., Title 28, Chapter 8, or any Administrative rule adopted pursuant to A.R.S., Title 28.

E. The Division, after conducting a hearing for a licensee, may cancel, suspend or revoke the license of a school, business manager or qualified instructor in any case where the Division finds that the licensee has not complied with, or has knowingly violated, A.R.S., Title 28, Chapter 8 or any rule adopted under A.R.S., Title 28.

1. Each cancelled, suspended or revoked license shall be surrendered to the Division's authorized contractor.
2. Decisions are subject to judicial review pursuant to A.R.S., Title 12, Chapter 7, Article 6.

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- F. The Division may suspend, or revoke the license of any TSS or TSS qualified instructor if the:
1. Licensee or qualified instructor fails to do anything required by the provisions of A.R.S. Title 28, Chapter 8, or A.A.C. R17-5-302 and R17-5-306, relating to TSS and TSS qualified instructors.
 2. Licensee does anything prohibited by the provisions of A.R.S. Title 28, or A.A.C. R17-5-302, relating to TSS and TSS qualified instructors.
 3. Application contains any misstatements or misrepresentations.
 4. TSS fails to pay a civil penalty within 30 days.
- G. The Division, upon determining that grounds for cancellation of a license exist, shall give notice thereof to the licensee in writing, and by the notice shall require the licensee to appear at a specified time and place, then and there to show cause why the license should not be cancelled. At the time and place fixed by the Division, which shall be not less than 10 days after notice, the licensee shall appear and be heard and may have other people present to testify at the hearing.