

## TITLE 10. LAW

## CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

(Authority: A.R.S. §§ 41-1308 and 41-1309)

**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**

(Authority: A.R.S. §§ 41-2407 and 41-2402)

*Article 1, consisting of Sections R10-4-101 through R10-4-111, adopted effective December 31, 1986.*

## Section

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**ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**

(Authority: A.R.S. §§ 41-2408 and 41-2402)

*Article 2, consisting of Sections R10-4-201 through R10-4-207, adopted effective December 22, 1986.*

## Section

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**ARTICLE 3. CRIMINAL JUSTICE ENHANCEMENT FUND***Article 3, consisting of R10-4-301 through R10-4-305, made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).**Article 3, consisting of R10-4-301 through R10-4-305, adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1).**Article 3, consisting of R10-4-301 through R10-4-305, repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).**Article 3, consisting of Sections R10-4-301 through R10-4-305, adopted effective September 11, 1986.*

## Section

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**ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT GRANTS***Article 4 consisting of Sections R10-4-401 through R10-4-404 adopted as permanent rules effective July 18, 1988.**Article 4 consisting of Sections R10-4-401 through R10-4-404 adopted as an emergency effective February 22, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.*

## Section

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**ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT***Article 5, consisting of Sections R10-4-501 through R10-4-504, made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2).*

## Section

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**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM****R10-4-101. Definitions**

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means a natural person who files a claim.
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
  - a. The perpetrator or a third party responsible for the perpetrator's actions;
  - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
    - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
    - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
  - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
  - d. State-required, insurance for a temporary, non-occupational disability;
  - e. Worker's compensation insurance;
  - f. Wage continuation program of any employer;
  - g. Insurance proceeds payable to cover a specific compensable cost due to criminally injurious conduct or an act of international terrorism;
  - h. A contract providing for prepaid hospital and other health care services or disability benefits; and

- i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for:
  - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct or act of international terrorism occurring within a residence or the surrounding curtilage;
  - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct or act of international terrorism occurring within a residence or the surrounding curtilage.
9. "Criminally injurious conduct" means conduct that:
  - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
  - b. Poses a substantial threat of physical injury, mental distress, or death; and
  - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. "Derivative victim" means:
  - a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism;
  - b. A child born to a victim after the victim's death;
  - c. A person living in the household of a victim who died as a result of criminally injurious conduct or act of international terrorism, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
  - d. A member of the victim's family who witnessed the criminally injurious conduct or act of international terrorism or who discovered the scene of the criminally injurious conduct or act of international terrorism;
  - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or act of international terrorism or discovered the scene of the criminally injurious conduct or act of international terrorism; or
  - f. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
  - a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct or an act of international terrorism;
  - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
  - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
  - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
13. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
14. "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.
15. "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
16. "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.
17. "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
18. "International terrorism" has the meaning prescribed in 18 U.S.C. 2331.
19. "Jurisdiction" means any county in this state.
20. "Medical expense" means a reasonable and customary cost for medical care provided to a victim due to a physical injury or medical condition that is a direct result of criminally injurious conduct or an act of international terrorism.
21. "Mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
22. "Mental health counseling and care expense" means a reasonable and customary cost to assess, diagnose, and treat a victim's or derivative victim's mental distress resulting from criminally injurious conduct or an act of international terrorism.
23. "Minimum wage standard" means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
24. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
25. "Program" means the Crime Victim Compensation Program.
26. "Proximate cause" means an event sufficiently related to criminally injurious conduct or act of international terrorism to be held the cause of the criminally injurious conduct or act of international terrorism.
27. "Reasonable and customary" means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
28. "Resident" means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
29. "Subrogation" means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
30. "Total and permanent disability" means a physical or mental condition that the Board finds is a proximate

result of criminally injurious conduct or act of international terrorism and:

- a. Produces a significant and sustained reduction in the victim's former mental or physical abilities dramatically altering the victim's ability to interact with others and carry on normal functions of life;
  - b. Lessens the victim's ability to work to a material degree; or
  - c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim's crime-related condition can reasonably be expected.
31. "Transportation costs" means a travel expense that may be reimbursed to a claimant as follows:
- a. Mileage, calculated at the rate established by:
    - i. The operational unit, or
    - ii. The state if the operational unit has not established a mileage rate;
  - b. Fare expenses; and
  - c. Vehicle rental at the cost specified in the rental agreement.
32. "Victim" means a natural person who suffers a physical injury or medical condition, mental distress, or death as a direct result of:
- a. Criminally injurious conduct,
  - b. An act of international terrorism,
  - c. The person's good faith effort to prevent criminally injurious conduct or an act of international terrorism, or
  - d. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.
33. "Work loss" means a reduction in income from:
- a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
  - b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed; new Section R10-4-101 renumbered from R10-4-103 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4).

Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-102. Administration of the Fund

- A. The Commission shall deposit in the Fund all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a claimant.
- B. The Commission shall designate one operational unit for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a formula that the Commission determines annually using:
  1. A base amount for each operational unit,
  2. An analysis of the prior year's claim activity,
  3. The share of population of each jurisdiction, and
  4. The share of crime of each jurisdiction.
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen

increase of victimization that causes an operational unit for a particular jurisdiction to lack the funds needed to provide compensation.

- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.
- I. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-102 renumbered from R10-4-104 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-103. Statewide Operation

For any jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article or provide for a program by contract.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-103 renumbered to R10-4-101; new Section R10-4-103 renumbered from R10-4-105 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-104. Operational Unit Requirements

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
  1. Only if the public or private agency agrees not to:
    - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;

- b. Make a distinction between a resident and a non-resident in evaluating a claim; and
  - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
2. Only if the public or private agency agrees to:
- a. Forward to the Board a claim relating to an incident of criminally injurious conduct or an act of international terrorism occurring in the public or private agency's jurisdiction or jurisdictions;
  - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
  - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct or an act of international terrorism occurring outside of the United States in an area without a crime compensation program;
  - d. Notify the Commission of any change in the public or private agency's program procedures before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
  - e. Submit a written quarterly financial report to the Commission, on a form provided by the Commission, and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;
  - f. Provide an application form to a claimant;
  - g. Comply with all civil rights requirements;
  - h. Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
  - i. Monitor a compensation award to ensure that amounts paid are consistent with this Article.
- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).  
 Amended effective October 28, 1994 (Supp. 94-4).  
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-104 renumbered to R10-4-102; new Section R10-4-104 renumbered from R10-4-106 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-105. Crime Victim Compensation Board

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with

at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.

- B. Board members serve a three-year term and are eligible for reappointment.
- C. When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.
- D. When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.
- E. A majority of the Board membership constitutes a quorum that may transact the business of the Board.
- F. The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.
- G. The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.
- H. As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.
- I. An employee of an operational unit shall not serve as a Board member.
- J. A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.
- K. A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.
- L. A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Former Section R10-4-105 renumbered to R10-4-103; new Section R10-4-105 renumbered from R10-4-107 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-106. Prerequisites for a Compensation Award

- A. The Board shall make a compensation award only if it determines that:
- 1. Criminally injurious conduct or an act of international terrorism:
    - a. Occurred in Arizona; or
    - b. Occurred outside of Arizona in an area without a crime compensation program and affected a resident;
  - 2. The criminally injurious conduct or act of international terrorism directly resulted in the victim's physical injury, mental distress, medical condition, or death;
  - 3. The victim of the criminally injurious conduct or act of international terrorism or a person who submits a claim regarding criminally injurious conduct or an act of international terrorism was not:

- a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, mental distress, medical condition, or death;
  - b. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, mental distress, medical condition, or death;
  - c. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, mental distress, medical condition, or death;
  - d. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
  - e. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
4. The criminally injurious conduct or act of international terrorism was reported to an appropriate law enforcement authority within 72 hours after its discovery;
  5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
  6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct or act of international terrorism that is not compensable by a collateral source; and
  7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct or act of international terrorism.
- B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.
  - C.** If a victim died as a result of criminally injurious conduct or act of international terrorism, the requirement under subsection (A)(3)(e) is waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.
  - D.** If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under subsection (A)(3)(e), the requirement under subsection (A)(3)(e) may be waived for:
    1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious conduct or an act of international terrorism, or
    2. A compensation award for expenses under R10-4-108(C)(3).

Section R10-4-106 renumbered to R10-4-104; new Section R10-4-106 renumbered from R10-4-108 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-106 renumbered to R10-4-108; new R10-4-106 made by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### **R10-4-107. Submitting a Claim**

- A.** If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
  1. A victim;
  2. A derivative victim;
  3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
  4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- B.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct or act of international terrorism, the person shall submit a separate claim regarding each incident of criminally injurious conduct or act of international terrorism.
- C.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct or act of international terrorism, each person shall submit a separate claim.
- D.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit for the jurisdiction in which the incident of criminally injurious conduct occurred or to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct is an act of international terrorism or occurred in an area without a victim compensation program. The claimant shall provide the following:
  1. About the victim:
    - a. Full name,
    - b. Residential address,
    - c. Gender,
    - d. Date of birth,
    - e. Residential and work telephone numbers,
    - f. Statement of whether the victim is deceased,
    - g. Ethnicity,
    - h. Statement of whether the victim is a resident, and
    - i. Statement of whether the victim is disabled;
  2. About the claimant if the claimant is not the victim:
    - a. Full name;
    - b. Residential address;
    - c. Gender;
    - d. Date of birth;
    - e. Residential and work telephone numbers;
    - f. Relationship to the victim; and
    - g. If there are multiple victims or derivative victims of an incident of criminally injurious conduct or act of international terrorism, the name, residential address, and date of birth of each, and for derivative victims, the relationship to the victim;
  3. About the crime:
    - a. Type of crime;
    - b. Statement of whether the crime was related to domestic violence;
    - c. Statement of whether the crime was a federal crime;
    - d. Date on which crime was committed;
    - e. Date on which crime was reported to law enforcement authorities;

#### **Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6).  
 Amended effective December 12, 1990 (Supp. 90-4).  
 Amended effective October 28, 1994 (Supp. 94-4).  
 Amended effective June 12, 1997 (Supp. 97-2). Former

- f. Name of law enforcement agency to which the crime was reported;
  - g. Name of law enforcement officer to whom the crime was reported;
  - h. Law enforcement report number;
  - i. Location of crime;
  - j. Name of perpetrator, if known; and
  - k. Brief description of the crime and resulting injuries;
4. About a civil lawsuit:
- a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
  - b. If the answer to subsection (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
5. About benefits from collateral sources:
- a. List of the benefits the claimant has received since the incident of criminally injurious conduct or act of international terrorism or is entitled to receive; and
  - b. For each benefit identified:
    - i. Type of benefit,
    - ii. Contact address and telephone number; and
    - iii. Claimant's identification or policy number;
6. About the economic loss for which compensation is requested:
- a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
  - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
  - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
  - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
  - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid;
  - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and
7. The claimant's dated signature:
- a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
  - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
  - c. Authorizing the release of confidential information necessary to administer the claim; and
  - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct or act of international terrorism and is necessary to verify the claim.
- E.** A claimant shall attach the following to the claim form submitted under subsection (D):
1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection (D)(6); and
  2. If work loss expenses are claimed, a signed statement on official letterhead:
    - a. From the claimant's employer verifying the information provided under subsection (D)(6)(c); and
    - b. If applicable, from the physician or mental health care provider indicating the claimant:
      - i. Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
      - ii. Is totally and permanently disabled.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-107 renumbered to R10-4-105; new Section R10-4-107 renumbered from R10-4-109 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-107 renumbered to R10-4-109; new R10-4-107 made by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-108. Compensation Award Criteria

- A.** The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, whether to make a compensation award and if so, the terms and amount of the compensation award. The Board shall make a decision within 60 days after the operational unit receives a claim under R10-4-107 unless good cause exists. The Board shall inform the claimant in writing within 10 days of the Board's decision.
- B.** The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C.** The Board shall make a compensation award only for the following:
1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, or death.
    - a. The Board shall include the following as a medical expense:
      - i. Repair of damage to a prosthetic device, eye-glasses or other corrective lenses, or a dental device; and
      - ii. Durable medical equipment.
    - b. The Board shall not include as a medical expense a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;
  2. Reasonable and customary work loss expenses for:
    - a. A victim whose ability to work is reduced due to physical injury, mental distress, or medical condition resulting from the criminally injurious conduct or act of international terrorism;
    - b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;

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- c. A derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the derivative victim;
  - d. A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;
  - e. A derivative victim to make funeral arrangements or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or
  - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required as a result of the criminally injurious conduct or act of international terrorism;
3. Reasonable and customary funeral expenses. Expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
  4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's mental distress resulting from the criminally injurious conduct or act of international terrorism if:
    - a. The mental health counseling and care is provided by an individual who:
      - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
      - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101,
      - iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or
      - iv. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
    - b. The mental health counseling and care expenses do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary;
  5. Reasonable and customary crime scene cleanup expenses due to a victim's homicide, aggravated assault, or sexual assault; and
  6. Reasonable and customary transportation costs related to:
    - a. Obtaining medical care as defined in subsection (C)(1),
    - b. Obtaining mental health counseling and care as defined in subsection (C)(4),
    - c. Attending a court proceeding directly related to the incident of criminally injurious conduct or act of international terrorism that is the subject of the claim,
    - d. The victim obtaining a medical forensic examination or participating in a medical forensic interview, and
    - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(d).
- D.** The Board shall not make a compensation award to a claimant that exceeds:
1. Twenty-five thousand dollars for all economic loss submitted under a claim as a result of an incident of criminally injurious conduct or act of international terrorism;
  2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
  3. For work loss expenses:
    - a. Work loss expenses under subsections (C)(2)(a) and (C)(2)(c) are limited to an amount per calendar week equal to 40 hours at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
    - b. Work loss expenses under subsections (C)(2)(b) and (C)(2)(d) are limited to an amount per calendar month equal to 40 hours at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
    - c. Work loss expenses under subsection (C)(2)(e) are limited to an amount equal to 24 hours at the current minimum wage, and
    - d. Work loss expenses under subsection (C)(2)(f) are limited to an amount equal to 160 hours at the current minimum wage;
  4. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
  5. For funeral expenses, \$10,000;
  6. For crime scene cleanup expenses, \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional service to include only repair or cleanup material costs for one-time use items; and
  7. For transportation costs, \$1,500 paid as reimbursement of actual transportation expenses.
- E.** If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.
- F.** The Board shall deny or reduce a compensation award to a claimant if:
1. The victim or claimant has recouped or is eligible to recoup the economic loss from a collateral source except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;
  2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
  3. The Board determines that the victim's physical injury, medical condition, mental distress, or death was due in substantial part to the victim's:
    - a. Negligence,
    - b. Intentional unlawful conduct that was the proximate cause of the incident of criminally injurious conduct or act of international terrorism, or
    - c. Conduct intended to provoke or aggravate that was the proximate cause of the incident of criminally injurious conduct or act of international terrorism.
- G.** The Board shall deny or reduce a compensation award under subsection (F)(3) in proportion to the degree to which the

Board determines the victim is responsible for the victim's physical injury, medical condition, mental distress, or death.

- H.** The Board shall deny a compensation award to a claimant if:
1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial health or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
    - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or act of international terrorism or failed to appear as a witness for the prosecution;
    - b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct or act of international terrorism escaped prosecution or the prosecution of the suspect was negatively affected; or
    - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; or
  2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.
- I.** If there are insufficient funds to make a compensation award, the Board may:
1. Deny the claim,
  2. Make a partial award and reconsider the claim later during the fiscal year, or
  3. Extend the claim into a subsequent fiscal year.
- J.** The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.
- K.** The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.
- L.** The operational unit may close an inactive claim:
1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;
  2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case; and
  3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).  
 Amended effective October 28, 1994 (Supp. 94-4).  
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-108 renumbered to R10-4-106; new Section R10-4-108 renumbered from R10-4-110 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-108 renumbered to R10-4-110; new R10-4-108 renumbered from R10-4-106 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4).  
 Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-109. Hearing; Request for Rehearing

- A.** If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article.
- B.** The Board shall provide a claimant with at least 10 days' notice of a hearing or rehearing.

- C.** The Board shall provide written notice of its decision to the claimant within 10 days after a hearing or rehearing.
- D.** The Board shall serve notice of a compensation-award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.
- E.** The Board may request a rehearing of a decision at any time and for any reason under this Article.
- F.** A claimant who is aggrieved by a decision of the Board made at a hearing may request a rehearing of the decision within 30 days after the Board serves notice of the decision. A claimant shall request a rehearing in writing and specify the grounds for the request.
- G.** A claimant may amend a request for a rehearing of a Board decision at any time before it is ruled on by the Board.
- H.** The Board may require additional written explanation of an issue raised in a request for rehearing of a Board decision and may provide for oral argument.
- I.** The Board shall grant a rehearing for any of the following reasons materially affecting a claimant's rights:
1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
  2. Misconduct of the Board, the operational unit, or staff of the operational unit;
  3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
  4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
  5. The decision is not justified by the evidence or is contrary to law.
- J.** When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.
- K.** The Board may affirm or modify a decision on all or part of the issues for any of the reasons listed in subsection (I). An order modifying a decision shall specify with particularity the grounds for the order.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).  
 Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-109 renumbered to R10-4-107 by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Section R10-4-109 renumbered from R10-4-107 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4).  
 Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-110. State-level Claim Review

- A.** A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- B.** The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
  2. A representative of the Office of the Attorney General, and



3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- C.** The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 days after receiving the written request required under subsection (A).
- D.** A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E.** When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
1. Considers only evidence previously presented to the Board, and
  2. Decides only whether the Board's decision was consistent with the standards in this Article.
- F.** The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G.** A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim; or
  2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- H.** The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 days after the state-level claim review.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-110 renumbered to R10-4-108 by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Section R10-4-110 renumbered from R10-4-108 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Section R10-4-110 renumbered to R10-4-111; new Section R10-4-110 made by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-111. Emergency Compensation Award

- A.** After receiving a claim submitted under R10-4-107, an operational unit may grant one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and
  2. Serious hardship will result to the person if an immediate compensation award is not made.
- B.** An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed \$1,000.
- C.** If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

#### Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). New Section R10-4-111 renumbered from R10-4-110 and amended by final

rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

##### R10-4-201. Definitions

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. "Crime" means conduct, completed or preparatory, committed in Arizona, that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. "Financial support from other sources" means that at least one-fourth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
4. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. "Immediate family" means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. "In-kind contribution" means a non-cash donation to which a cash value can be given.
7. "Subrogation" means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
8. "Substantial financial support from other sources" means that at least half of the financial support to a victim assistance program is from sources, not including in-kind contributions, other than the Fund.
9. "Victim" means a natural person against whom a crime is perpetrated and the victim's immediate family.

#### Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Section repealed; new Section R10-4-201 renumbered from R10-4-203 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

##### R10-4-202. Administration of the Fund

- A.** The Commission shall deposit in the Fund all funds received under A.R.S. §§ 31-467.06(B) and 31-411(F) and any other funds received for victim assistance.
- B.** The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution and effective and efficient use of the funds.
- C.** At least six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is [www.azcjc.gov](http://www.azcjc.gov).
- D.** To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).

- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

#### Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-202 renumbered from R10-4-204 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-203. Grant Eligibility Requirements

- A. A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney's office or law enforcement agency.
- B. A public agency or private nonprofit organization qualified under subsection (A) may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a program that:
1. Provides services described in R10-4-204 to victims;
  2. Does not use Commission funds or federal funds to supplant funds otherwise available to the program for victim assistance;
  3. Uses volunteers effectively and efficiently to provide victim services;
  4. Promotes coordinated public and private efforts to assist victims within the community served;
  5. Assists a victim in seeking available victim compensation benefits; and
  6. Complies with all applicable civil rights laws.
- C. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for at least three years shall demonstrate to the Commission that the program:
1. Has substantial financial support from a source other than the Fund; and
  2. Has a history of providing effective services to victims. The Commission shall determine whether the program's victim services are effective based on:
    - a. The length of time the program has provided victim services, and
    - b. Whether data indicate program results are achieved in a cost-effective manner.
- D. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for fewer than three years shall demonstrate to the Commission that the program:
1. Has financial support from a source other than the Fund; and
  2. Is designed to meet a currently unmet need for a specific victim service.
- E. To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:
1. Submit to the Commission quarterly financial reports, on a form provided by the Commission, containing detailed

- expenditures of funds received from the Commission and matching funds;
2. Submit an annual report to the Commission, on a form provided by the Commission, and provide the following information:
    - a. Number of victims served during the reporting period, by type of crime;
    - b. Type of services provided;
    - c. Number of times each service was provided;
    - d. Ethnic background, age, and sex of each victim served;
    - e. Type of assistance provided to victims in obtaining victim compensation;
    - f. Number of times each type of assistance was provided; and
    - g. A narrative assessment of the impact of Commission funds on the program.

#### Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-203 renumbered to R10-4-201; new Section R10-4-203 renumbered from R10-4-205 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

#### R10-4-204. Services

- A. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services:
1. Crisis intervention services to meet the urgent emotional or physical needs of a victim. Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;
  2. Emergency services including:
    - a. Temporary shelter for a victim who cannot safely remain in current lodgings;
    - b. Petty cash for immediate needs related to transportation, food, shelter, and other necessities; and
    - c. Temporary repairs such as locks and windows damaged as a result of a crime to prevent the home or apartment from being re-burglarized immediately;
  3. Support services, including:
    - a. Counseling dealing with the effects of victimization;
    - b. Assistance dealing with other social services and criminal justice agencies;
    - c. Assistance in obtaining the return of property kept as evidence;
    - d. Assistance in dealing with the victim's landlord or employer; and
    - e. Referral to other sources of assistance as needed;
  4. Court-related services, including:
    - a. Direct services or petty cash that helps a victim participate in criminal justice proceedings, including transportation to court, child care, meals, and parking expenses; and
    - b. Advocate services including escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
  5. Notification services, including notifying a victim:
    - a. Of significant developments in the investigation or adjudication of the case;

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- b. That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled; and
- c. Of the final disposition of the case.
- B.** A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to provide:
1. Training for salaried or volunteer staff of criminal justice, social services, mental health, or related agencies, who provide direct services to victims; and
  2. Printing and distributing brochures or similar announcements describing the direct services available, how to obtain program assistance, and volunteer opportunities.
- C.** A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
1. Crime prevention efforts, other than those aimed at providing specific emergency help after an individual is victimized;
  2. General public relations programs;
  3. Advocacy for a particular legislative or administrative reform;
  4. General criminal justice agency improvement;
  5. A program in which victims are not the primary beneficiaries;
  6. Management training or training for persons who do not provide direct services to a victim; or
  7. Victim Compensation provided under this Chapter.

**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-204 renumbered to R10-4-202; new Section R10-4-204 renumbered from R10-4-206 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4).

**R10-4-205. Renumbered****Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-205 renumbered to R10-4-203 by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4).

**R10-4-206. Renumbered****Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-206 renumbered to R10-4-204 by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4).

**R10-4-207. Repealed****Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4).

**ARTICLE 3. CRIMINAL JUSTICE ENHANCEMENT FUND****R10-4-301. Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission.
2. "Contact" means the individual representative of a recipient or the Arizona Sheriffs' Association, on behalf of the various county sheriffs' offices, who communicates with the Commission regarding the Fund.
3. "Enhance" or "enhancing," as used in A.R.S. § 41-2401(D), means to supplement rather than replace monies from other sources.
4. "Fund" means the Criminal Justice Enhancement Fund established by A.R.S. § 41-2401(A).
5. "Head" means:
  - a. The Director of the Arizona Department of Public Safety,
  - b. The Arizona Attorney General,
  - c. The Director of the Administrative Office of the Courts, and
  - d. The sheriff of each Arizona county.
6. "Recipient" means the Arizona Department of Public Safety, Arizona Department of Law, the Supreme Court, and each Arizona county sheriff's office.

**Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-301 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

**R10-4-302. Contact Information Required**

- A.** Within 60 days after this Article takes effect, each Head and the President of the Arizona Sheriffs' Association shall submit to the Commission the name, address, telephone and fax numbers, and e-mail of the contact.
- B.** If any of the information submitted under subsection (A) changes, the Head or the President of the Arizona Sheriffs' Association shall provide immediate notice of the change to the Commission.

**Historical Note**

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-302 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

**R10-4-303. Fund Guidelines Required**

- A.** Within 60 days after this Article takes effect, the contact within the Arizona Department of Public Safety, Arizona Department of Law, and the Administrative Office of the Courts shall submit to the Commission the recipient's guidelines regarding the following:
1. The procedure for handling Fund monies until they are allocated for expenditure,
  2. The procedure used to allocate Fund monies,
  3. The procedure used to ensure that Fund monies are expended as specified in A.R.S. § 41-2401(D), and
  4. The procedure used to assess the impact of the Fund monies on enhancing criminal justice in the manner specified in A.R.S. § 41-2401(D).

- B. Within 60 days after this Article takes effect, the contact for each county Sheriff's Office or the Arizona Sheriffs' Association shall submit to the Commission guidelines that meet the standard described in subsections (A)(3) and (4);
  - C. Within 60 days after the guidelines submitted under subsections (A) and (B) are received, the Commission shall review the guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.
  - D. A recipient or the Arizona Sheriffs' Association shall review and, if necessary, update the guidelines. By October 1 of each year, the contact for each recipient or the Arizona Sheriffs' Association shall provide to the Commission the guidelines as revised or inform the Commission that no revision is necessary. Within 60 days after revised guidelines submitted under this subsection are received, the Commission shall review the revised guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.
- 2. If the complaint relates to an expenditure by a court, shall submit the complaint to the Director of the Administrative Office of the Courts.
  - B. An individual who submits a complaint shall ensure that the complaint includes sufficient information to enable the Commission to investigate the expenditure alleged to be inconsistent with A.R.S. § 41-2401(D).
  - C. Except as specified in subsection (E), if the Commission determines that an expenditure about which a complaint is submitted appears to be inconsistent with A.R.S. § 41-2401(D), the Commission shall ask the Head to explain the expenditure.
  - D. If the Commission determines that the expenditure is inconsistent with A.R.S. § 41-2401(D), the Commission shall take action allowed by law to remedy the expenditure.
  - E. The Director of the Administrative Office of the Courts shall:
    1. Investigate an expenditure about which a complaint is submitted under subsection (A)(2),
    2. Determine whether the expenditure is inconsistent with A.R.S. § 41-2401(D), and
    3. Notify the Commission of the determination and any action taken to remedy the expenditure.

#### Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-303 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

#### R10-4-304. Records Required

- A. A Head shall ensure that the following records are maintained for the recipient:
  1. The amount of Fund monies available to the recipient,
  2. To whom Fund monies were disbursed and the amount of Fund monies disbursed,
  3. A detailed description of the manner in which the Fund monies are expended, and
  4. An assessment of the impact of the Fund monies on enhancing criminal justice.
- B. A Head shall ensure that the records required under subsection (A) are:
  1. Maintained for three years; and
  2. Made available, upon request, for review by the Commission and the Arizona Auditor General.
- C. All reports required of a recipient by statute to be submitted to the Commission are subject to review and verification by the Commission.

#### Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-304 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

#### R10-4-305. Complaints

- A. An individual who believes that Fund monies are being expended in a manner that is inconsistent with A.R.S. § 41-2401(D) may:
  1. Submit a written complaint to the Commission; and

#### Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-305 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

### ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT GRANTS

#### R10-4-401. Definitions

In this Article:

"A-133 audit report" means a report on an audit conducted in accordance with the standards for obtaining consistency and uniformity among federal agencies for the audit of non-federal entities expending federal awards established by the Office of Management and Budget in Circular A-133.

"Account" means the Drug and Gang Enforcement Account established by A.R.S. § 41-2402.

"Applicant" means an approved agency or task force that submits an application for a grant from the Account.

"Approved agency" means a unit of state, county, local, or tribal government working to accomplish one or more of the goals established at A.R.S. § 41-2402(A).

"Approved project" means a planned endeavor to accomplish one or more of the goals established at A.R.S. § 41-2402(A) for which a grant is made from the Account.

"Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.

"Committee" means the Drug, Gang, and Violent Crime Committee of the Commission.

"Host agency" means an approved agency that submits a grant application and required reports on behalf of a task force.

"Matching funds" means non-federal and non-Account money or program income that a grant recipient adds to a grant from the Account and spends to accomplish the goals of an approved project.

“Program income” means funds generated as a result of the activities funded by a grant from the Account.

“Task force” means multiple approved agencies from different jurisdictions that collaborate to accomplish multiple goals established at A.R.S. § 41-2402(A).

#### Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

#### R10-4-402. General Information Regarding Grants

- A. The Commission shall annually request grant applications and make grant awards of Account funds.
- B. The Commission’s ability to make grant awards is contingent upon the availability of Account funds.
- C. The Commission shall publish its priorities for grant awards in a report of the state’s strategy for combating drugs, gangs, and violent crime. This report also includes the plan approved by the federal government and referenced under A.R.S. § 41-2402(F).
- D. The Commission shall make all information regarding grants, including the request for grant applications and application and report forms, available on its web site.
- E. The Commission shall ensure that training regarding grant application procedures and grant management are made available to interested approved agencies.
- F. The Commission shall provide oversight of all grants awarded, which may include conducting a financial review or audit of a grant recipient, to ensure that Account funds are expended in compliance with all terms of the grant agreement and all applicable state and federal laws.
- G. The Commission shall require that a grant recipient provide matching funds in the amount specified in the request for grant applications.
- H. The Commission shall not require a grant recipient to provide matching funds that exceed 25% of the total project budget.

#### Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section R10-4-402 renumbered to R10-4-403; new Section made by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

#### R10-4-403. Grant Application

- A. An approved agency or task force may submit an application for a grant from the Account. If application is made by a task force, members of the task force shall identify a host agency.
- B. An applicant shall access, complete, and submit to the Commission the application form that is available on the Commission’s web site. The applicant shall provide the following information:
  1. Title of the application and proposed project;
  2. Purpose specified in A.R.S. § 41-2402(A) that the proposed project will address;

3. Statement of whether the application is a request to continue a previously approved project;
  4. Name and address of the applicant;
  5. List of member agencies of the task force if the applicant is a task force;
  6. Name of the individual authorized to submit the application;
  7. Name of the individual responsible for administering and supervising the proposed project;
  8. Statement of the mission of the proposed project;
  9. Statement of the problem addressed by the proposed project including data reflecting:
    - a. The scope of the problem, and
    - b. The absence or inadequacy of current resources to address the problem;
  10. Summary of the proposed project that explains how the proposed project seeks to address the problem identified;
  11. Description of collaborative efforts among law enforcement, prosecution, community organizations, social service agencies, and others that will be involved with the proposed project;
  12. Description of the methodology that will be used to evaluate the effectiveness of the proposed project;
  13. Goals of the proposed project stating what the proposed project is intended to accomplish;
  14. Objectives that are specific, measurable, and directly correlated to the goals of the proposed project;
  15. Detailed budget that includes:
    - a. Total amount to be expended on the proposed project including both Account and matching funds;
    - b. Estimated amount to be expended for various allowable expenses and the manner in which the estimate was determined;
    - c. Sources of the required matching funds; and
    - d. Statement of whether Account funds received will be used as matching funds for another grant program and if so, the name of the grant program and funding agency;
  16. Date of the jurisdiction’s current A-133 audit report;
  17. Description of the internal controls the applicant will use to ensure compliance with all terms of the grant agreement;
  18. Description of plan to sustain the project if Account funds are no longer available; and
  19. Signature of the individual identified in subsection (B)(6) certifying that the information presented is correct and that if a grant is received, the applicant will comply with the terms of the grant agreement and all applicable state and federal laws.
- C. In addition to submitting the application form required under subsection (B), an applicant shall submit to the Commission:
1. A copy of the jurisdiction’s current A-133 audit report or if the jurisdiction does not have a current A-133 audit report, a copy of all correspondence relating to an extension of time to have an audit completed;
  2. If the applicant is a task force, a letter on agency letterhead or another document from each member agency of the task force describing the manner in which the member intends to contribute to the proposed project; and
  3. If the applicant’s jurisdiction applied directly for federal criminal justice grant funding, a copy of the application.

#### Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp.

88-3). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section R10-4-403 renumbered to R10-4-404; new Section R10-4-403 renumbered from R10-4-402 and amended by final rulemaking at 14 A.A.C. 4654, effective January 31, 2009 (Supp. 08-4).

**R10-4-404. Application Evaluation; Standards for Award**

- A.** The Commission shall ensure that each application that is submitted timely and proposes a project eligible for funding from the Account is evaluated. After the applications are evaluated, the Committee shall forward a recommended allocation plan to the Commission. The Commission shall grant or deny funding within 90 days after the application deadline.
- B.** If the Commission determines that it needs additional information to facilitate its review of an application, the Commission shall:
1. Request the additional information from the applicant, or
  2. Request the applicant to amend the application.
- C.** The Commission shall approve grant funding, in whole or in part, or deny funding using standards in the plan approved by the federal government and referenced under A.R.S. § 41-2402(F).
- D.** The standards referenced in subsection (C) include an assessment of whether the proposed project:
1. Is directed toward a problem that is demonstrated by statistical data;
  2. Is designed to address the identified problem;
  3. Is a coordinated effort among multiple approved agencies;
  4. Has specific goals;
  5. Has measurable objectives that relate to the goals;
  6. Has appropriate methods for evaluating achievement of objectives;
  7. Has a reasonable budget of allowable expenses;
  8. Has identified the required matching funds;
  9. Has internal controls to monitor expenditure of Account funds; and
  10. If the program was previously funded, all grant requirements were met timely and there were no reportable deficiencies during monitoring reviews.

**Historical Note**

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section 10-4-404 renumbered to R10-4-406; new Section R10-4-404 renumbered from R10-4-403 and amended by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

**R10-4-405. Request for Modification of Recommended Allocation Plan**

- A.** Commission staff shall provide an applicant with at least five days' notice of the Committee's recommended allocation plan and the date, time, and location of the meeting at which the Committee will make a decision about forwarding the recommended allocation plan to the Commission for its action.
- B.** If an applicant disagrees with the recommended allocation plan, the applicant may verbally request that the Committee modify the recommended allocation plan. The Committee shall consider the request for modification before forwarding the recommended allocation plan to the Commission.

- C.** Commission staff shall provide an applicant with at least five days' notice of the date, time, and location of the meeting at which the Commission will consider the recommended allocation plan.
- D.** If an applicant disagrees with the recommendation of the Committee, the applicant may verbally request that the Commission modify the recommended allocation plan. The Commission shall consider the request for modification when making a final decision to award or deny a grant of Account funds to the applicant. The Commission's decision is final.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

**R10-4-406. Required Reports**

- A.** The Commission shall annually prepare and submit the report required under A.R.S. § 41-2405(A)(11) and the report required by the federal government regarding the current criminal justice grant program. The Commission shall use data submitted by grant recipients as specified in the recipient's grant agreement to prepare these reports.
- B.** A grant recipient shall submit to the Commission financial, activity, and progress reports documenting the activities supported by the Account funds. The grant recipient shall submit the reports as specified in the grant agreement. The specific reports required are determined by the nature of the proposed project. A grant recipient shall submit a required report by the 25th day following the end of the month or quarter in which the report is due.
- C.** The Commission shall not distribute Account funds to a grant recipient that fails to submit a required report within 60 days of its due date.
- D.** A grant recipient shall cooperate with and participate in all assessment, evaluation, or data collection efforts authorized by the Commission.
- E.** The Commission has the right to obtain, reproduce, publish, or use information provided in the required reports or assessment, evaluation, or data collection efforts. When in the best interest of the state, the Commission may authorize others to receive and use the information.

**Historical Note**

New Section R10-4-406 renumbered from R10-4-404 and amended by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

**ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT**

**R10-4-501. Definitions**

In this Article:

1. "Account" means the Full-service Forensic Crime Laboratories Account established by A.R.S. § 41-2421(J)(5).
2. "Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.
3. "Full-service forensic crime laboratory" means a facility that:
  - a. Is operated by a criminal justice agency that is a political subdivision of the state;
  - b. Employs at least one full-time forensic scientist who holds a minimum of a bachelor's degree in a physical or natural science;
  - c. Is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for possession of all scheduled, controlled substances;

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- d. Is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board; and
- e. Provides, at a minimum, services in the areas of controlled substances, forensic biology, DNA, blood and breath alcohol, firearms, and toolmarks.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

**R10-4-502. Grant Solicitation Process**

- A. The Commission shall annually publish and post on the Commission's internet site, which is [www.azacjc.gov](http://www.azacjc.gov), a grant solicitation for distribution of Account monies. When the grant solicitation is posted, the Commission shall send an electronic notice of the posting to all Arizona criminal justice agencies that operate a full-service forensic crime laboratory.
- B. The Commission shall ensure that the grant solicitation contains:
  - 1. The Commission's goals for the grant program for the allocation year,
  - 2. Applicant eligibility criteria,
  - 3. The format in which a grant application is to be submitted,
  - 4. The date by which a grant application is to be submitted,
  - 5. Grant application evaluation criteria,
  - 6. Project expenses for which Account monies may be used,
  - 7. The period in which all Account monies must be expended,
  - 8. Account money reversion criteria and process, and
  - 9. The award denial appeal process.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

**R10-4-503. Grant Application Evaluation; Decision of the Commission**

- A. The Commission shall evaluate each grant application and make a decision to award or deny a grant within 120 days of the date by which grant applications are due.
- B. If the Commission determines additional information is needed to facilitate its evaluation of an application, the Commission shall request from the applicant:
  - 1. Additional information, or
  - 2. Application modification.

- C. An applicant from whom additional information or application modification is requested shall submit the information or modification to the Commission within 10 business days from the date of the request.
- D. After completing its evaluation of an application, the Commission shall vote to award, in whole or in part, or deny a grant based on:
  - 1. The grant criteria published in the grant solicitation;
  - 2. The amount of funds available for allocation; and
  - 3. Compliance with the application format.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

**R10-4-504. Reports**

Within 15 days after the end of each calendar quarter, a grantee shall submit a written report, on a form prescribed by the Commission, containing:

- 1. A financial report that includes itemized budget information, and
- 2. An activity report that documents activities supported by the grant funds and includes:
  - a. A narrative of activities undertaken during the reporting period;
  - b. An evaluation of progress toward achieving the goals and objectives in the grant application;
  - c. An evaluation of adherence to the time-frames in the grant application; and
  - d. A description of equipment purchased with grant funds during the reporting period, how the equipment is related to achieving the goals and objectives of the project, and the current status of the equipment, such as whether it is operational, waiting to be installed, or undergoing testing; and
- 3. A copy of any deliverable provided by a consultant paid with grant funds.

**Historical Note**

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).