

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-205: Drug Treatment and Education Fund

A. Definitions. In this section the following definitions apply:

“Administrative director” means both the administrative director of the Administrative Office of the Courts (AOC) and the director’s designee.

“Case record” means any documentation pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

“Co-payment” means an amount that a probationer pays to the probation department or a licensed provider for treatment and education services.

“Controlled substance” means “a drug, substance or immediate precursor in schedule I through V of article 2 of this chapter” as provided in A.R.S. § 36-2501(A)(3).

“Court” means superior court.

“Drug abuse education” means an intervention service designed to provide information, knowledge, understanding of drug abuse and motivational enhancement.

“Drug abuse evaluation” means administration of an Administrative Office of the Courts (AOC) approved assessment by a qualified or licensed person to determine morbidity and target intervention strategies.

“Evidence-based practice” means strategies that have been shown through current, scientific research to lead to a reduction in recidivism.

“Intensive outpatient treatment” means a treatment service for probationers in a non-residential setting that consists of a minimum of three, two-hour face-to-face group sessions per week. One, one-hour individual session may be substituted for one, two-hour group session.

“Lapse/Relapse prevention” means a service for probationers in a non-residential setting that facilitates maintaining abstinence as well as provides help for probationers who experience relapse.

“Long term residential treatment” means any type of treatment or counseling for alcohol and other drug disorders where the probationer resides at the facility for 31 days or more.

“Motivational enhancement” means a client-centered counseling approach for initiating behavior change by helping probationers resolve ambivalence about engaging in treatment and stopping drug use.

“Short term residential treatment” means any type of treatment or counseling for alcohol and other drug disorders where the probationer resides at the facility for 30 days or less.

“Standard outpatient treatment” means a treatment service for probationers in a non-residential setting that consists of a minimum of one, 90 minute face-to-face group session per week with a maximum of five face-to-face contact hours per week. One, one-hour individual session may be substituted for one, 90 minute group session.

B. Applicability. Article VI, Section 3 of the Arizona Constitution and A.R.S. § 13-901.02(A) provides: “The drug treatment and education fund is established. The administrative office of the supreme court shall administer the fund.”

C. Purpose. A.R.S. § 13-901.01(A) provides: “Notwithstanding any law to the contrary, any person who is convicted of the personal possession or use of a controlled substance or drug paraphernalia is eligible for probation. The court shall suspend the imposition or execution of sentence and place the person on probation.”

A.R.S. § 13-901.01(D) provides:

If a person is convicted of personal possession or use of a controlled substance or drug paraphernalia, as a condition of probation, the court shall require participation in an appropriate drug treatment or education program administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances. Each person who is enrolled in a drug treatment or education program shall be required to pay for participation in the program to the extent of the person's financial ability.

D. General Administration.

1. The Administrative Office of the Courts (AOC) shall:
 - a. Administer the Drug Treatment and Education Fund (DTEF) on behalf of the supreme court;
 - b. Monitor local DTEF programs;
 - c. Prepare written material setting forth various techniques, practices, guidelines and other recommendations regarding the operation and management of the DTEF and distribute this material to judges and probation personnel;

- d. Inspect, audit, or have audited the records of any court using the DTEF;
- e. Prescribe and adopt procedures, forms and reports necessary for financial administration, program administration, operation and management of the DTEF;
- f. Conduct seminars and educational sessions regarding the purpose and operation of the DTEF;
- g. Establish performance measures and expectations in consultation with the court for determining compliance with each court's DTEF program plan;
- h. Assist courts in developing their DTEF program plans;
- i. Provide general assistance to courts on the operation of the DTEF;
- j. Adopt other administrative practices and procedures; consistent with this code, as necessary for the administration of the DTEF; and
- k. Pursuant to A.R.S. § 13-901.02(D):

... cause to be prepared at the end of each fiscal year after 1997 an accountability report card that details the cost savings realized from the diversion of persons from prisons to probation. A copy of the report shall be submitted to the governor and the legislature, and a copy of the report shall be sent to each public library in the state.

- 1. Approve any and all assessments used to perform drug abuse evaluations pursuant to ACJA § 6-205.
- 2. For purposes of uniform administration, each adult probation department receiving DTEF monies shall comply with this code.

E. Allocation of Funds.

- 1. A.R.S. § 13-901.02(B) provides:

Fifty per cent of the monies deposited in the drug treatment and education fund shall be distributed by the administrative office of the supreme court to the superior court probation departments to cover the costs of placing persons in drug education and treatment programs administered by a qualified agency or organization that provides such programs to persons who abuse controlled substances.

2. A.R.S. § 13-901.02(B) further provides: “Such monies shall be allocated to superior court probation departments according to a formula established by the administrative office of the supreme court.”

F. Program Plan and Financial Management.

1. Each participating court shall submit program and expenditure plan to the administrative director. The expenditure plan and any plan modification shall be consistent with A.R.S. §§ 13-901.01 and 13-901.02 and this code, and shall outline how the DTEF allocation shall be used to cover the cost of placing persons in drug education and treatment programs. The participating court shall submit the plan within the prescribed time frame and on forms required by the administrative director.
2. Each presiding judge shall submit, in writing, all requests to modify the program and expenditure plans on a form approved by the administrative director.
3. In the event that the administrative director disapproves a plan or plan modification submitted by a court, the presiding judge of the court may request that the administrative director submit the plan to the chief justice for consideration and final determination.
4. On approval of the plan as submitted or modified and the availability of funds, the administrative director shall enter into a written funding agreement with the submitting court for the distribution of funds. The administrative director may amend or terminate funding agreements due to lack of funds, lack of financial need, or the court’s failure to comply with applicable statutes, the approved plan, funding agreement or this code.
5. The administrative director may reallocate funds during the year based on documented need, current use of funds and approved plan or budget modifications.
6. A.R.S. § 12-267(B) provides: “The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section.”
7. The participating court shall use allocated DTEF monies and interest only for the support and operation of approved DTEF plans. Each participating court plan shall describe a procedure for monitoring compliance with DTEF contract and AOC Funding Agreement requirements.
8. On agreement with a participating court, the administrative director may withhold funds allocated to the court and may authorize direct expenditures for the benefit of the court. The administrative director may also reallocate these funds during the fiscal year.

9. The presiding judge of each participating court shall submit to the AOC, by January 31 of each year, a mid-year financial and program activity report related to the court's plan through December 31. Failure to submit the report in a timely manner may result in financial sanctions.
10. The presiding judge of each participating court shall submit to the AOC, by August 31 of each year, a closing financial and program activity report related to the court's plan through June 30. Failure to submit the report in a timely manner may result in financial sanctions.
11. The presiding judge of each participating court shall return to the AOC, by August 31 of each year, all DTEF funds distributed to the court which are unencumbered as of June 30 and unexpended as of July 31. Failure to revert the unencumbered funds in a timely manner may result in financial sanctions.
12. Each participating court and its probation department shall maintain and provide to the AOC data and statistics as may be required by the administrative director to administer the DTEF. Each participating court and probation department shall maintain AOC required data in the statewide Adult Probation Enterprise Tracking System (APETS).
13. Each participating court and its probation department shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least five years from the close of the fiscal year.

G. Program Operations.

1. Each probation department shall have a written policy and procedure detailing the management and provision of DTEF services in their department, including, but not limited to:
 - a. Establishing a process to identify and refer for participation in an appropriate drug abuse education or treatment program, probationers sentenced pursuant to A.R.S. § 13-901.01. The determination of whether treatment or education is needed shall be based on the risk score in the drug abuse domain of the standardized assessment or reassessment and any other relevant information. Probationers determined to need treatment shall be evaluated with an AOC approved assessment administered by a qualified or licensed person, in consultation with the adult probation department, to determine the level of drug abuse treatment necessary. At a minimum, probationers sentenced pursuant to A.R.S. § 13-901.01 shall receive drug abuse education.
 - b. Establishing a process to identify and refer for drug abuse education or treatment, probationers not sentenced pursuant to A.R.S. § 13-901.01, once those who have been sentenced pursuant to A.R.S. § 13.901.01 have been served and resources permit. The determination of whether treatment or education is needed shall be based on the risk score in the drug abuse domain of the standardized assessment or reassessment

- and any other relevant information. Probationers determined to need treatment shall be evaluated with an AOC approved assessment administered by a qualified or licensed person, in consultation with the adult probation department, to determine the level of drug abuse treatment necessary.
- c. Assessing co-payment utilizing an AOC approved standardized tool for assessing ability to pay; and
 - d. Utilizing a quality assurance process for data entry into APETS regarding DTEF funded services and outcomes for the compilation of DTEF performance measures.
2. Each probation department shall have a process by which each participating court enters into contractual agreements with qualified human services agencies to provide drug treatment and education services.
 - a. Participating courts are authorized to combine resources and jointly enter into such contractual agreements.
 - b. Participating courts shall develop contractual agreements pursuant to the Judicial Branch Procurement Rules or local procurement policies.
 - c. All contractual agreements shall contain a provision acknowledging the authority of the AOC to inspect their records or conduct audits.
 - d. All contractual agreements shall contain specifications that meet the drug treatment and education fund requirements.
 - e. All treatment services shall be contracted at the local court level consistent with local procurement requirements.
 - f. All treatment contracts shall contain state minimum insurance requirements.
 3. All agencies or organizations entering into contractual agreements with a participating court shall hold licenses issued by the Arizona Department of Health Services, Office of Behavioral Health Licensing. The participating court shall retain a copy of the agency or organization's most recent license.
 4. Each probation department shall require clinical staff providing treatment services funded by the DTEF to hold licensure with either the Arizona Medical Board, Arizona Board of Psychologist Examiners, or Arizona Board of Behavioral Health Examiners based upon the services rendered.
 5. Each probation department shall require all probation department employees or contract service providers that facilitate drug abuse education programs to be trained and certified in the delivery of the specific education program.

6. Vendors who are contracted for drug treatment and education services shall not be employed as an adult probation officer.
7. Private practitioners who are contracted for drug abuse treatment and education services shall not sub-contract with others to perform the contracted services, unless approved by the probation department or AOC.
8. Each probation department shall be responsible for the costs incurred for any service rendered which is not in accordance with the court's approved expenditure plan.

H. General Treatment Requirements.

1. Each probation department shall:
 - a. Utilize an AOC approved standardized tool for assessing a probationer's ability to pay for services, including, but not limited to, the probationer's eligibility for Arizona Health Care Cost Containment System (AHCCCS), private insurance, and other means of payment. The probationer shall choose 1 of 2 methods of payment:
 - (1) The probationer shall pay a sum determined by the AOC approved standardized tool for assessing the ability to pay to the probation department for deposit in the separate DTEF account within the adult probation services fund, or
 - (2) The probationer shall pay a sum determined by the AOC approved standardized tool for assessing the ability to pay directly to the provider who will document these payments as deducted from the monthly invoice for services rendered.
 - (3) Provide to the AOC by August 31 of each year reports summarizing payments made by probationers receiving DTEF funded services.
 - b. Screen all probationers for AHCCCS, Title 19 and Title 21 eligibility. If eligible, the probation officer shall document in offenders' case record. The probation officer shall only place qualified offenders in AHCCCS funded treatment or education programs, if available. This placement shall not cause therapeutic disruption.
 - c. Require all drug abuse education and treatment services funded by the DTEF to employ current research or evidence-based intervention strategies for educating or treating drug abusing probationers.
 - d. Require all treatment, interventions and services to match the specific needs of the probationer.
 - e. Develop a service delivery continuum which includes, at minimum, the following services:
 - (1) Drug abuse evaluation,
 - (2) Drug abuse education,

- (3) Standard and intensive outpatient,
 - (4) Residential treatment,
 - (5) Motivational enhancement, and
 - (6) Lapse/relapse prevention.
- f. Obtain AOC approval prior to adding additional services to the continuum provided in provision (H)(1)(e) of this section. The request shall include documentation of evidence-based research supporting the effectiveness of the additional service.

Adopted by Administrative Order 2001-68, effective July 11, 2001. Amended by Administrative Order 2002-69, effective June 25, 2002. Amended by Administrative Order 2009-38, effective April 8, 2009. Amended by Administrative Order 2010-27, effective February 24, 2010.