



California Rules Of Court (Revised July 1, 2017)

Rule 4.104. Procedures and eligibility criteria for attending traffic violator school

(a) Purpose

The purpose of this rule is to establish uniform statewide procedures and criteria for eligibility to attend traffic violator school.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(b) Authority of a court clerk to grant a request to attend traffic violator school

(1) Eligible offenses

Except as provided in (2), a court clerk is authorized to grant a request to attend traffic violator school when a defendant with a valid driver's license requests to attend an 8-hour traffic violator school under Vehicle Code sections 41501(a) and 42005 for any infraction under divisions 11 and 12 (rules of the road and equipment violations) of the Vehicle Code if the violation is reportable to the Department of Motor Vehicles.

(2) Ineligible offenses

A court clerk is not authorized to grant a request to attend traffic violator school for a misdemeanor or any of the following infractions:

- (A) A violation that carries a negligent operator point count of more than one point under Vehicle Code section 12810 or one and one-half points or more under Vehicle Code section 12810.5(b)(2);
- (B) A violation that occurs within 18 months after the date of a previous violation and the defendant either attended or elected to attend a traffic violator school for the previous violation (Veh. Code, §§ 1808.7 and 1808.10);
- (C) A violation of Vehicle Code section 22406.5 (tank vehicles);
- (D) A violation related to alcohol use or possession or drug use or possession;
- (E) A violation on which the defendant failed to appear under Vehicle Code section 40508(a) unless the failure-to-appear charge has been adjudicated and any fine imposed has been paid;
- (F) A violation on which the defendant has failed to appear under Penal Code section 1214.1 unless the civil monetary assessment has been paid;
- (G) A speeding violation in which the speed alleged is more than 25 miles over a speed limit as stated in Chapter 7 (commencing with section 22348) of Division 11 of the Vehicle Code; and
- (H) A violation that occurs in a commercial vehicle as defined in Vehicle Code section 15210(b).

(Subd (b) amended effective January 1, 2013; previously amended effective January 1, 2003, September 20, 2005, January 1, 2007; January 1, 2007, and July 1, 2011.)

(c) Judicial discretion

- (1) A judicial officer may in his or her discretion order attendance at a traffic violator school in an individual case as permitted under Vehicle Code section 41501(a) or 42005 or for any other purpose permitted by law. A defendant having a class A, class B, or commercial class C driver's license may request to attend traffic violator school if the defendant was operating a vehicle requiring only a noncommercial class C or class M license. The record of conviction after completion of traffic violator school by a driver who holds a class A, class B, or commercial class C license must not be reported as confidential. A defendant charged with a violation that occurs in a commercial vehicle, as defined in Vehicle Code section 15210(b), is not eligible to attend traffic violator school under Vehicle Code sections 41501 or 42005 in lieu of adjudicating an offense, to receive a confidential conviction, or to avoid violator point counts.
- (2) A defendant who is otherwise eligible for traffic violator school is not made ineligible by entering a plea other than guilty or by exercising his or her right to trial. A traffic violator school request must be considered based on the individual circumstances of the specific case. The court is not required to state on the record a reason for granting or denying a traffic violator school request.

(Subd (c) amended effective January 1, 2013; amended and relettered as part of subd (b) effective January 1, 2003; previously amended effective January 1, 1998, September 20, 2005, January 1, 2007, January 1, 2007, and July 1, 201.)

Rule 4.104 amended effective January 1, 2013; adopted as rule 851 effective January 1, 1997; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1998, July 1, 2001, January 1, 2003, September 20, 2005, January 1, 2007 and July 1, 2011.

Advisory Committee Comment

Subdivision (c)(1). Rule 4.104(c)(1) reflects that under Vehicle Code sections 1808.10, 41501, and 42005, the record of a driver with a class A, class B, or commercial class C license who completes a traffic violator school program is not confidential and must be reported to and disclosed by the Department of Motor Vehicles for purposes of Title 49 of the Federal Code of Regulations and to insurers for underwriting and rating purposes.

Subdivision (c)(2). Rule 4.104(c)(2) reflects court rulings in cases where defendants wished to plead not guilty and have the court order attendance of traffic violator school if found guilty after trial. A court has discretion to grant or not grant traffic violator school. (*People v. Schindler* (1993) 20 Cal.App.4th 431, 433; *People v. Levinson* (1984) 155 Cal.App.3d Supp. 13, 21.) However, the court may not arbitrarily refuse to consider a request for traffic violator school because a defendant pleads not guilty. (*Schindler, supra*, at p. 433; *People v. Wozniak* (1987) 197 Cal.App.3d Supp. 43, 44; *People v. Enochs* (1976) 62 Cal.App.3d Supp. 42, 44.) If a judicial officer believes that a defendant's circumstances indicate that a defendant would benefit from attending school, such attendance should be authorized and should not be affected by the order in which the plea, explanation, and request for traffic violator school are presented. (*Enochs, supra*, at p. 44.) A court is not required to state its reasons for granting or denying traffic violator school following a defendant's conviction for a traffic violation. (*Schindler, supra*, at p. 433.)