

TITLE 20 – Courts
CHAPTER 20 – Court Reporters

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of Certified Shorthand Reporters**

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TITLE 20, CHAPTER 20

Appendix 2 – Rules Governing Disciplinary Proceedings of the State Board of Examiners Certified Shorthand Reporters

Rule 1. Persons to Whom Rules Apply

These rules shall apply to all persons who are enrolled as certified shorthand court reporters under the rules of the Board of Examiners of Certified Shorthand Reporters (hereinafter “the Board”) (20 O.S. Ch. 20, App. 1), all persons otherwise certified or licensed as court reporters, or as acting court reporters, by the Oklahoma Supreme Court, and all persons appointed by the Chief Justice of the Oklahoma Supreme Court as temporary court reporters pursuant to Section 106.3B(d) of Title 20 of the Oklahoma Statutes. All of the foregoing persons are collectively referred to in these rules as “court reporters” and use herein of the terms “certificate” or “enrollment” shall also collectively refer to a court reporter’s “license” or other official authorization to practice court reporting in Oklahoma.

The Board designates and authorizes the Director of the Administrative Office of the Courts to receive and accept on behalf of the Board any notice, submission or other correspondence referenced in these Rules.

Rule 2. Grounds for Discipline

Upon receiving a complaint, or as otherwise hereafter provided, the Board shall conduct proceedings, on reasonable notice, the object of which is to recommend to the Supreme Court discipline of any court reporter, where it shall be determined there exists any of the following grounds:

- a) Final conviction of a criminal offense which indicates a clear and rational likelihood that the reporter will not properly discharge the responsibilities of a certified shorthand reporter or a person serving as a court reporter pursuant to Section 106.3B of Title 20;
 - 1) As used in this Rule, “criminal offense” shall include, but is not limited to i) any felony, ii) any lesser crime that reflects adversely on the court reporter’s honesty, trustworthiness or fitness to practice court reporting, and/or iii) any crime a necessary element of which, as determined by the statutory or common law

definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a such an offense.

- 2) As used in this Rule, a final conviction includes a plea of guilty or nolo contendere pursuant to a deferred sentence plea agreement, a verdict or finding of guilt, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence may not be actually imposed until all appeals are exhausted.
- b) The misrepresentation of any fact in obtaining licensure;
- c) Any violation of, or noncompliance with any rule or directive of the Supreme Court;
- d) Fraud, gross incompetence, gross or habitual neglect of duty;
- e) Engaging in the practice of shorthand reporting using a method for which the reporter is not certified;
- f) Engaging in the practice of shorthand reporting without an active certification;
- g) A violation of Section 1513 of Title 20 of the Oklahoma Statutes pertaining to prohibited contracts.

Rule 3. Administrative Suspension and Revocation for Nonpayment of Certificate Renewal Fee

Administrative suspension and revocation of a court reporter for nonpayment of certificate renewal fees shall be as provided in the Rules of the State Board of Examiners of Certified Shorthand Reporters. The formal disciplinary procedures provided for by these rules have no application to suspensions and revocations based solely on nonpayment of renewal fees.

Rule 4. Administrative Suspension and Revocation for Failure to Obtain the Required Hours of Continuing Education

Administrative suspension and revocation of a court reporter for failure to obtain the required hours of continuing education and/or properly file the continuing education compliance report in any calendar year, shall be as provided in the Rules of the State Board of Examiners of Certified Shorthand Reporters. The formal disciplinary procedures provided for by these rules have no application to suspensions and revocations based solely on failure to obtain or report the required hours of continuing education.

Rule 5. Complaints

The procedure for filing a complaint against a court reporter and the investigation of such complaint shall be as follows:

- a) The Board shall furnish forms for a request for investigation to each person who alleges misconduct of a court reporter. Each complaint shall be in writing, although not necessarily in the prescribed form, and signed by the complainant. A complaint may be filed by any person, including another court reporter, who has knowledge or information of misconduct of a court reporter. The Board may initiate a complaint upon its own motion.
- b) A complaint shall be filed with the Secretary of the Board, who shall transmit copies to all members of the Board. The Board shall conduct preliminary investigation to determine whether there are facts sufficient to warrant formal disciplinary proceedings.
 - 1) The Board may solicit additional information from the complainant.
 - 2) The Board may interview or subpoena potential witnesses.
 - 3) The Board shall inform the court reporter involved of the nature of the complaint and afford the court reporter an opportunity to respond thereto in writing.
- c) Should the Board determine that formal disciplinary proceedings are not warranted, the complainant and the court reporter involved shall be promptly notified of such determination by the Secretary of the Board. Such determination may be appealed by the complainant by filing a Petition for Review with the Clerk of the Supreme Court not more than thirty (30) days from the date of the Board's decision. Such petition shall be processed by the Court as in other appeals from recommendations of the Board as hereinafter provided.
- d) Should the Board determine that formal disciplinary proceedings are warranted, the Secretary of the Board shall prepare a formal complaint, as set forth in Rule 6.

Rule 6. Formal Proceedings, How Commenced

- (a) Upon an affirmative vote of the Board to commence formal disciplinary proceedings, the Secretary of the Board shall prepare a formal complaint. The formal complaint shall be styled:

**BEFORE THE STATE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND
REPORTERS**

**The State of Oklahoma ex rel. State Board
Of Examiners of Certified Shorthand Reporters,
Complainant,**

No.

**v.
(Name of Accused),
Respondent,**

COMPLAINT

The complaint shall state the specific facts constituting the alleged misconduct, whether prior misconduct has resulted in discipline, and whether prior investigations of misconduct are to be relied upon to enhance discipline. Any prior acts or conduct relied upon to enhance discipline shall be so stated and set forth by specific allegation of fact. The complaint shall be attested by the Chairman of the Board.

- b) Should the complaint allege as grounds for discipline the final conviction of a court reporter, in any jurisdiction, of a criminal offense which indicates a clear and rational likelihood that the court reporter will not properly discharge his or her duties and responsibilities as a certified shorthand reporter, there shall be attached thereto a certified copy of the indictment or information, and a certified copy of the judgment and sentence on a plea of guilty, order deferring judgment and sentence, or judgment and sentence of conviction. Such documents, regardless of the pendency of an appeal, shall constitute the charge and be conclusive evidence of the commission of the crime upon which the judgment is based and shall suffice as the basis for discipline in accordance with these rules. Thereafter, the issues in a formal proceeding shall be limited to whether the conviction demonstrates a clear and rational likelihood that the court reporter will not properly discharge his or her duties and responsibilities, and the nature and extent of discipline to be imposed.
- 1) If an appeal is perfected from the judgment of conviction and such judgment is reversed, the disciplinary proceedings based on such conviction shall be dismissed immediately and the court reporter involved restored to his/her former status.
 - 2) Conviction in a criminal proceeding is not a condition precedent to the imposition of discipline. Nothing contained herein shall prevent the Board from initiating and conducting formal disciplinary proceedings upon charges identical to those

set forth in a criminal complaint, indictment, or information, notwithstanding the pendency or final disposition of the criminal action.

- c) The Secretary of the Board shall cause the complaint together with notice of a hearing before the Board thereon to be sent to the court reporter involved. The hearing before the Board shall be set no earlier than thirty (30) days from the date of mailing of the complaint and notice. The Chairman of the Board may, in his or her discretion, grant continuances for good cause known.

- c) Upon receipt of sufficient evidence that a court reporter has engaged in conduct indicating that he or she is unfit to practice court reporting, and where such conduct poses an immediate threat of public harm, the Board may, in its discretion, request the Supreme Court to order the immediate interim suspension of that court reporter. In its order of interim suspension, the Court shall direct the court reporter to appear before the Board at a time certain, to show cause why the order of interim suspension should be set aside. Upon good cause shown, the Board may request the Court to set aside its order of interim suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of and confidence in the court reporting profession.

- d) Upon written request made not less than fifteen (15) days prior to the hearing date, the court reporter respondent shall be provided with a list of all witnesses the Board reasonably anticipates may be called to testify at the hearing and copies of all documentary evidence supporting the allegations of the complaint. (These will be provided by the Attorney General or an Assistant Attorney General, not less than ten (10) days prior to the hearing date.) The court reporter respondent, not less than five (5) days prior to the hearing, shall submit a list of all witnesses the respondent anticipates may be called to testify at the hearing and all documentary evidence the court reporter intends to introduce as evidence in defense of the charges in the complaint or as to mitigation of discipline. The Board may in its discretion and for good cause shown modify the time limits herein imposed.

Rule 7. Disciplinary Hearings

- a) The Board, under signature of the Chairman on behalf of the Board, shall have power to issue subpoenas to compel the attendance of witnesses on behalf of the State or the court reporter involved.

- b) The Chairman shall preside over formal disciplinary hearings and, if necessary, rule on questions of procedure. Disciplinary hearings shall be conducted in an orderly manner, generally following the order of proceedings in civil matters. However, the formal rules

of evidence and civil procedure shall not apply to disciplinary hearings before the Board. Any evidence offered on behalf of the complainant or the court reporter respondent shall be received and considered unless clearly irrelevant to the proceedings. The court reporter shall have the right to appear personally or through counsel, cross examine witnesses and present evidence on his/her own behalf. A complete stenographic record of formal disciplinary hearings before the Board shall be kept. The complainant shall have the burden of persuasion on the material elements of the complaint. Hearings may be adjourned or continued to a date certain as the Board in its discretion shall decide.

- c) All proceedings before the Board shall be open and conducted in full compliance with the Oklahoma Open Meeting Act [25 O.S. § 301, et. seq.], except that the Board, when acting in its capacity as a quasi-judicial body, may adjourn to an executive session for purposes of deliberations only. All votes of the Board regarding disciplinary matters shall be publicly cast and recorded.
- d) Decisions of the Board shall be in writing with findings of fact and conclusions of law as applicable, including a recommendation as to discipline, if such is found to be indicated. The written decision of the Board shall reflect the votes of the members for or against the Board's recommendation. The written decision of the Board shall constitute its recommendation to the Supreme Court for or against discipline. If the recommendation is for discipline, the Board may recommend:
 - 1) Suspension for a period of time up to one (1) year; or
 - 2) Revocation of the enrollment of a certified court reporter, or revocation of the status of a person appointed as a temporary court reporter pursuant to Section 106.3B(d) of Title 20 of the Oklahoma Statutes.

The written decision of the Board shall be immediately transmitted to the court reporter respondent, by hand-delivery or by mailing it or sending it by third-party commercial carrier for delivery within three (3) calendar days. Proof of service shall be documented, and may be made by a certificate of mailing endorsed on the written decision.

Rule 8. Transmittal of Recommendation and Review by Supreme Court

- a) Within forty-five (45) days after the date of the Board's decision, the Board shall file with the Clerk of the Supreme Court the complete record of the proceedings, which shall consist of the following:
 - 1) The complaint;

- 2) The Board's written decision, which constitutes its recommendation, and proof of service thereof;
- 3) All other pleadings, if any;
- 4) A transcript of the formal disciplinary hearing; and
- 5) All exhibits offered at the hearing.

Unless ordered by the Supreme Court, a designation of record for appeal will not be required from the Board. An extension of time for preparation of the record may be granted only by order of the Supreme Court, for good cause shown. The Secretary of the Board shall promptly notify the court reporter respondent and the complainant of the completion and transmittal of the record.

- b) Either the complainant or the court reporter may, within twenty (20) days of receipt of notice of completion and transmittal of the record, file a brief-in-chief contesting the Board's recommendation or any part thereof. An answer brief may be filed within ten (10) days after the filing of brief-in-chief. A reply brief may be filed within five (5) days after filing of the answer brief.
- c) After filing of briefs, if any, the decision and recommendations of the Board shall stand submitted to the Supreme Court which may, in its sole discretion, adopt or reject such recommendations in whole or in part, remand with instructions, or make such other disposition as the Supreme Court may deem proper, with or without oral argument or formal written opinion. Either party aggrieved by the decision of the Supreme Court may make application for rehearing as provided by the Rules of the Supreme Court.

Rule 9. Reinstatement After Formal Disciplinary Proceedings

- a) Any court reporter who, as a result of formal disciplinary proceedings, has been suspended by order of the Supreme Court for a period of one (1) year or less shall have his/her certificate reinstated without further proceedings before the Board upon the filing of a verified application with the Secretary of the Board, and a copy thereof with the Clerk of the Supreme Court, which shall state:
 - 1) That the term of the suspension as ordered by the decision of the Supreme Court has expired;
 - 2) That all costs of the formal disciplinary proceedings, including transcript costs, as well as renewal fees, have been paid by the applicant;
 - 3) That there is not currently pending before the Board any complaint of misconduct against the applicant, and;

- 4) That the applicant has not engaged in the practice of court reporting during the term of suspension.

Material deletions or misrepresentations in the application shall be grounds for discipline.

- b) Any court reporter who, as a result of formal disciplinary proceedings, has had his/her enrollment as a certified court reporter revoked by order of the Supreme Court may seek reinstatement by filing a verified application with the Secretary of the Board, and a copy with the Clerk of the Supreme Court, which shall state:
 - 1) The applicant's current home and business address, together with a narrative of his/her residence and employment history during the period of revocation;
 - 2) That the applicant has not, during the period of his/her revocation, been finally convicted of a criminal offense which indicates a clear and rational likelihood that the reporter will not properly discharge the responsibilities of a certified shorthand reporter;
 - 3) The names of at least five (5) persons who will testify as to the good moral character of the applicant;
 - 4) That the applicant has paid all costs of the disciplinary proceedings resulting in his/her discipline, all renewal fees and/or penalty fees due but unpaid at the time of revocation, and will pay all costs attendant to processing of his/her application for reinstatement;
 - 5) That the applicant has not engaged in the practice of court reporting during the term of revocation; and
 - 6) That the applicant has taken and successfully passed the examination prescribed by the Board for certification of shorthand reporters.
- c) Upon receipt of an application for reinstatement pursuant to paragraph b, the Secretary of the Board shall transmit copies of said application to all members of the Board, and shall cause said application to be set for hearing before the Board. Notice of hearing on the application shall be sent to the applicant and shall be published in the Oklahoma Bar Journal and in a newspaper of general circulation in the county of the residence of the applicant and, if different, also in the county of the applicant's residence at the time of his/her cancellation or revocation. The cost of such publication shall be included in the costs to be paid by the applicant. Said notice shall be published in one (1) issue of each such periodical and shall advise interested persons when and where the hearing will be conducted.

- d) The Board shall conduct a full hearing on the reinstatement application in the same manner as in conducting hearings on formal disciplinary complaints. The Board shall make its decision in writing, with findings of fact and conclusions of law as applicable. The Board's written decision shall constitute its recommendation to the Supreme Court for or against reinstatement. The written decision of the Board shall reflect the votes of the members for or against the Board's recommendation. The written decision of the Board shall constitute its recommendation to the Supreme Court for or against reinstatement.

The written decision of the Board shall be immediately transmitted to the court reporter involved, by hand-delivery or by mailing it or sending it by third-party commercial carrier for delivery within three (3) calendar days. Proof of service shall be documented, and may be made by a certificate of mailing endorsed on the written decision.

- e) Within forty-five (45) days after the date of the Board's decision, the Board shall file with the Clerk of the Supreme Court the complete record of the reinstatement proceedings, which shall consist of the following:
- 1) The reinstatement application;
 - 2) The Board's written decision, which constitutes its recommendation, and proof of service thereof;
 - 3) A transcript of the reinstatement hearing; and
 - 4) All exhibits offered at the hearing.

Unless ordered by the Supreme Court, a designation of record for appeal will not be required from the Board. An extension of time for preparation of the record may be granted only by order of the Supreme Court, for good cause shown. The Secretary of the Board shall promptly notify the court reporter applying for reinstatement of the completion and transmittal of the record.

- f) After completion and transmittal of the record, the decision and recommendations of the Board shall stand submitted to the Supreme Court which may, in its sole discretion, adopt or reject such recommendations in whole or in part, remand with instructions, request briefs from the parties, or make such other disposition as the Supreme Court may deem proper, with or without oral argument or formal written opinion. Either party aggrieved by the decision of the Supreme Court may make application for rehearing as provided by the Rules of the Supreme Court.

Rule 10. Reinstatement After Administrative Revocation

A court reporter who, due to failure to pay certificate renewal fees or obtain the required hours of continuing education, has had his/her enrollment administratively revoked, shall be reinstated without further proceedings before the Board by filing a verified application with the Secretary of the Board and a copy with the Clerk of the Supreme Court, which shall state:

- a) That the applicant has paid any certificate renewal fee, delinquent payment fee, continuing education penalty fee, or continuing education suspension fee that was accrued on the date of the administrative revocation;
- b) That there is not currently pending before the Board any complaint of misconduct against the applicant;
- c) That the applicant has not engaged in the practice of court reporting during the term of revocation, and;
- d) That the applicant has taken and successfully passed the examination prescribed by the Board for certification of shorthand reporters.