

# The Judicial Council of Georgia Board of Court Reporting Rules and Regulations

## **ARTICLE 1. GENERAL PROVISIONS**

### **A. Location of Offices**

The principal office of the Board of Court Reporting of the Judicial Council of Georgia is 244 Washington Street, S.W., Suite 300, Atlanta, Georgia 30334-5900.

### **B. Tenses, Gender, and Number**

As used in this Chapter, the present tense includes the past and future tenses, and the future tense includes the present; the masculine gender includes the feminine, and the feminine includes the masculine; the singular includes the plural, and the plural includes the singular.

### **C. Definitions**

1. Any future reference to “the Board” in these rules shall mean the Board of Court Reporting of the Judicial Council of Georgia.
2. Any future reference to “the exam” in these rules shall mean the Georgia Certified Court Reporters Exam, including all written and dictation portions, approved by the Board of Court Reporting of the Judicial Council of Georgia.

### **D. Power of the Board, Generally**

Unless otherwise explicitly addressed in these Rules and Regulations, by the Judicial Council of Georgia, or in the Georgia Court Reporting Act, the Board shall have discretion to perform any act necessary to define and regulate the practice of court reporting in Georgia and to establish the Board’s procedures.

### **E. Power of the Board, Generally**

These Rules shall take effect on January 1, 2008, except as provided in Article 3. Also, any grievance filed before January 1, 2008, shall proceed under the Rules and Regulations in place at the time the grievance was filed.

## **ARTICLE 2. PERSONS QUALIFIED TO TAKE EXAM**

All persons who did not make application to qualify or did not qualify under Section 11 of Georgia Laws 1974, p. 349 (O.C.G.A. § 15-14-29(b)), by April 1, 1975, must pass an exam provided for in Article 3 of these Rules to become a Certified Court Reporter, unless qualified to apply for certification under Article 6 (Emergency Judicial Permits) of these Rules.

## **ARTICLE 3. CERTIFICATION**

### **A. Requirement to Pass Exam**

An applicant shall qualify to apply to be a Certified Court Reporter in Georgia by passing an exam, as hereinafter provided, and meeting the requirements of O.C.G.A. § 15-14-29. Application for testing shall be made on a form approved by the Board. The Board reserves the right to refuse to allow testing for a good cause.

### **B. Disqualification for Act of Dishonesty**

Any applicant who commits any act of dishonesty concerning any portion of the exam shall immediately be disqualified, and will not be eligible to take the exam again for a period of two years from the date of the exam on which the applicant was disqualified.

### **C. Testing**

1. The Board shall provide for an exam to be administered to an applicant, pursuant to a written protocol established by the Board from time to time. The exam shall be designed to test the competency of the applicant as a court reporter, as well as the applicant's knowledge of the laws, rules, and regulations governing the conduct of court reporting in Georgia.
2. Any person who passes an exam before January 1, 2008, in another state that has been previously approved by the Georgia Board of Court Reporting, and thereafter becomes licensed in that state, may apply to become a certified court reporter in Georgia. However, no application for reciprocal license through a state-administered exam shall be accepted after June 30, 2008. A person who has passed an exam administered by a national court reporting association may be eligible to be certified in Georgia.

#### **D. Procedure for Certification After Testing and Pre-Certification**

1. Application for certification shall be made on a form approved by the Board after an applicant is notified that the applicant has passed the exam. If the Applicant is applying for certification after passing an exam in another state or passing an exam administered by a national association, the applicant shall provide a copy of the certification document from that state or national association with the application.
2. As to applicants who take the Georgia exam, applications for certification must be received by the Board within 45 days of the mailing date of notification from the Board that the applicant is eligible. Any applicant who fails to meet the 45-day deadline shall be required to take and pass the exam again to apply for certification.
3. A certification fee set by the Board must be included with the application for certification.
4. Under O.C.G.A. § 15-14-33, the Board has the authority to refuse to grant a certificate based on one or more of the grounds listed in O.C.G.A. § 15-14-33(a)(1) through O.C.G.A. § 15-14-33(a)(12) (inclusive). To effectuate this code section, the Board requires applicants for certification to consent to a background check. Applicants shall complete a Consent for Release of Information Form and Background Check Form and submit it to Board staff. Applicants acknowledge by their submission of the form that they understand that information revealed in the background check may impact their ability to become certified.
  - a. Applicants must answer all questions on both forms truthfully and must cooperate with the Board and its designees during the background check process. Applicants shall answer all questions posed by the Board and/or its designees during the background check process truthfully, accurately, and with candor. Applicants have a continuing duty to report any change in circumstances or new information regarding their criminal history, professional licensing history, or any facts or circumstances that implicate the factors outlined in O.C.G.A. § 15-14-33(a)(1)-(12). Failure to disclose a change in circumstance that would alter an applicant's answer on the form if they were to complete it after the change in circumstance can result in a denial of certification.
  - b. The Board shall deny certification if, by a majority vote of the entire Board, it finds that an applicant is unfit to possess a court reporting certificate for any one or more of the following reasons listed in O.C.G.A. § 15-14-33(a)(1) through O.C.G.A. § 15-14-33(a)(12) (inclusive). The Board may, in its discretion, grant a

hearing to an applicant, under the procedures outlined in O.C.G.A. § 15-14-33(g) and (i). However, the Board is not required to hold a hearing and may issue a decision on the written record created by Board staff's investigation under this code section.

- c. Prospective applicants interested in becoming certified court reporters who are concerned that their past criminal or professional licensing issues may prevent them from becoming certified may request a pre-certification review of their background before taking a certification test. Applicants must submit the Consent for Release of Information Form, along with a non-refundable fee of \$50. Board staff or its designee will evaluate a prospective applicant utilizing the same standards and procedures used to evaluate traditional applicants, as outlined in Article 3.D.6 and Article 3.D.7. If a potential applicant is approved under this section, the applicant must take a certification test within two years of the date the prospective applicant is notified of approval. The prospective applicant has a continuing duty to report any new or changed information regarding the prospective applicant's criminal history or professional licensing history immediately to Board staff.

#### **E. Certificate**

After receipt of the prescribed fee and approval of the application for certification and payment the Board will issue a certificate to the applicant. A reporter possessing such a certificate will be a adequately certified court reporter in the State of Georgia.

#### **F. Right to Review**

The Board reserves the right to refuse to certify any applicant for good cause.

**ARTICLE 4. CERTIFICATION PER METHOD**

A court reporter shall be certified to use only the method of takedown that was used for testing. A court reporter may be certified in more than one method of takedown by successfully passing the exam using each method of takedown.

**ARTICLE 5. RENEWAL OF CERTIFICATES****A. Form and Fees**

Certificates may be renewed annually by filing the renewal form and paying the renewal fee set by the Board on or before April 1<sup>st</sup>. No renewal form or payments will be accepted unless the reporter complies with the rules regarding continuing education hours. Renewal forms must be completed truthfully and accurately. Under O.C.G.A. § 15-14-33, the Board has the authority to revoke a certificate or emergency judicial permit to a certified court reporter for the reasons contained therein.

**B. Inactive Status**

A court reporter who wishes to cease the business of court reporting in Georgia may elect to become “inactive” by notice to the Board on a form provided by the Board, effective on the date of filing of the form with the Board. An inactive reporter shall not be required to pay dues or obtain continuing education hours. A reporter who elects inactive status, and wishes to become an active certified court reporter again in this state, must become certified again through testing. A reporter who elects inactive status shall provide the Board with an address and location for the reporter’s records relating to work the reporter performed before becoming inactive. If a court reporter elects “inactive” status, the reporter shall not be authorized to take down any matters, but shall be permitted to certify transcripts of matters taken down before becoming inactive.

**ARTICLE 6. EMERGENCY JUDICIAL PERMITS****A. Emergency Judicial Permits**

1. Any judge of a court of record shall have the authority to request an emergency judicial permit, allowing a person who is not a certified court reporter in the State of Georgia to act as a temporary official court reporter in that judge’s court for a period not to exceed one year, in accordance with O.C.G.A. § 15-14-34.

2. The applicant shall also send an Application for Emergency Judicial Permit and pay a fee set by the Board. Upon receipt and approval of the request, the Application, and the fee, the Board may issue a permit for that reporter to be the official court reporter for that court only for a period not to exceed one year, except that the judge under whom the reporter is serving may request an extension of up to one additional year.
3. The emergency judicial permit shall not be renewable, except as provided in Section 2, and shall not allow freelance reporting by the judicial permit holder. No person shall be granted more than one emergency judicial permit.
4. The emergency judicial permit is no longer valid once the holder of the permit takes and passes the exam to become a certified court reporter in Georgia.

## **ARTICLE 7. COURT REPORTING FIRMS**

### **A. Definition and Professional Services**

1. Definitions
  - a. “*Court reporter*” as used in this Article is as defined in O.C.G.A. § 15-14- 22(3).
  - b. “*Certified Court Reporter*” as used in this Article is as defined in O.C.G.A. § 15-14-22(2).
  - c. “*Court reporting*” as used in this Article is as defined in O.C.G.A. § 15-14-22(4).
  - d. “*Court reporting services*” as used in this Article shall mean any service engaged in by a court reporter in the practice of court reporting.
  - e. Definition of court reporting firms
    - i. “*Court reporting firm*” is a sole proprietorship, partnership, corporate entity, or other association that arranges, schedules, provides, and/or facilitates court reporting services, including, but not limited to, the production, billing, or delivery of transcripts.
    - ii. Certified court reporters who form a sole proprietorship, corporate entity, or other association to conduct their court reporting services and who do not employ, or otherwise utilize the services of, other certified court reporters shall not be a court reporting firm as defined by this Article.

- iii. Courts, agencies, or instrumentalities of local governments, the State of Georgia, or the United States shall not be a court reporting firm as defined by this Article.

## 2. Ownership and Professional Services

- a. A court reporting firm shall conduct court reporting services only through its officers, employees, and agents who are duly certified to practice court reporting under The Georgia Court Reporting Act.
- b. Only certified court reporters and registered court reporting firms may arrange, schedule, provide, and/or facilitate court reporting services, including, but not limited to, the production, billing, and delivery of transcripts. Arranging, scheduling, providing, and/or facilitating court reporting services for cases filed in the courts of the State of Georgia, including, but not limited to, the production, billing, or delivery of transcripts, shall be doing business in Georgia for purposes of The Georgia Court Reporting Act.

## **B. Registration and Renewals**

### 1. Registration

- a. Court reporting firms shall register with, and receive notification in writing of approval from, the Board before doing business in Georgia by completing an application in the form adopted by the Board and paying fees as required by the Board.
- b. The registration application of a court reporting firm shall be submitted to the Board by an owner or officer of the court reporting firm who shall be responsible for all representations and information made to the Board on the application.

### 2. Renewals

- a. Every court reporting firm shall annually renew its registration with the Board on or before April 1 of each year by completing a renewal application in the form adopted by the Board and paying fees as required by the Board. The renewal application shall be submitted to the Board by an owner or officer of the court reporting firm who shall be responsible for all representations and information made to the Board on the renewal application.
- b. Every firm registration which has not been renewed by April 1 shall expire on that date of that year and shall be placed on the Inactive Registry List. Expired registrations may only be renewed by a court reporting firm upon payment of a late fee for each year of delinquency, in addition to the

renewal fees for each year of delinquency and any other requirements that may be imposed as a result of the grievance process.

### **C. Prohibition against certain contracts for court reporting services**

Contracts for court reporting services not related to a particular case or reporting incident between a court reporting firm or any person with whom a court reporting firm has a principal and agency relationship and any attorney at law, party to an action, party having a financial interest in an action, or agent for an attorney at law, party to an action, or party having a financial interest in an action are prohibited. Attorneys shall not be prohibited from negotiating or bidding reasonable fees for services on a case-by-case basis.

To comply with this Article, each court reporting firm shall make inquiry regarding the nature of the contract for its services directed to the employer or the person or entity engaging said court reporting firm as an independent contractor and shall provide the applicable disclosure(s) as required under Article 10.B.

This Article shall not apply to contracts for court reporting services for the courts, agencies, or instrumentalities of the United States or the State of Georgia.

### **D. Ethics and Grievance Procedures**

1. Court reporting firms shall not violate any provision of The Georgia Court Reporting Act or any other laws or rules governing the practice of court reporting in Georgia.
2.
  - a. Court reporting firms, and owners and officers of a court reporting firm shall be responsible for ensuring that the business of the court reporting firm is conducted in all ways consistent with The Georgia Court Reporting Act and any other laws or rules governing the practice of court reporting in Georgia.
  - b. Court reporting firms, and owners and officers of a court reporting firm shall adopt reasonable measures to assure that any court reporter providing court reporting services on behalf of the court reporting firm is currently certified in Georgia.
  - c. An owner or officer of a court reporting firm may be subject to discipline under O.C.G.A. § 15-14-33 and Article 12 of these Rules and Regulations for the court reporting firm's violation of The Georgia Court Reporting Act or any other laws or rules governing the practice of court reporting in Georgia.
3.
  - a. The Grievance Procedures of Article 12 of these Rules and Regulations shall apply to court reporting firms.

- b. The authority and standards expressed in O.C.G.A. § 15-14-33 shall apply to court reporting firms.
  - c. The Board may take any one or more of the following actions in disciplining or enjoining the actions of a court reporting firm:
    - i. Administer a public or private reprimand against a court reporting firm, but a private reprimand shall not be disclosed but to the court reporting firm;
    - ii. Administer a public or private reprimand against the owner(s) or officer(s) of a court reporting firm, but a private reprimand shall not be disclosed but to the court reporting firm;
    - iii. Imposing a monetary fine pursuant to O.C.G.A. § 15-14-37(g);
    - iv. Condition the penalty upon, or withhold formal disposition pending, the court reporting firm's submission to such care, counseling, or treatment as the Board may direct; or
    - v. Any other remedy provided for by law, including the seeking of injunctive relief as provided for by O.C.G.A. § 15-14-35, whether on its own motion or as a result of the Grievance Procedures.
4. The Code of Professional Ethics and all other ethical requirements incumbent upon certified court reporters shall apply equally to court reporting firms.

## **ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS**

### **A. Georgia Certified Court Reporters Training Council**

The Georgia Certified Court Reporters Training Council is established. The Council shall consist of seven voting members. The members shall be two freelance voice writer-reporters, two freelance shorthand reporters, one official voice writer-reporter, one official shorthand reporter, and one official reporter certified in any method. The members shall be appointed as follows:

1. Four members shall be appointed by the Georgia Certified Court Reporters Association as follows: one freelance voice writer, one official voice writer, one official freelance shorthand reporter, and one official shorthand reporter.
2. Three members shall be appointed by the Board of Court Reporting as follows: one official reporter certified in any method, one freelance shorthand reporter, and one freelance voice writer;
3. The members shall serve a term of three years. Members may not exceed two consecutive three-year terms.
4. The Board may remove a CRTC member for cause. If a member resigns or is removed before the end of their term, the appointing body shall make an appointment for the remainder of the unexpired term.
5. There must be at least three members of the Council present at a meeting to constitute a quorum for the transaction of business. The Council shall maintain minutes of its meetings.
6. The Council shall provide a written report of the previous calendar year's activities to the Board by March 1 of each year.
7. The Council shall elect a Chair, Vice-Chair and Secretary at their first meeting every year, who shall serve for one year. The Chair may be re-elected for one additional year, but may not serve for more than two consecutive years. The Administrative Office of the Court shall provide staff assistance to the Council.

### **B. Duties of the Georgia Certified Court Reporters Training Council**

The Georgia Certified Court Reporters Training Council shall be vested with the following functions, powers, and responsibilities:

1. To promulgate rules and regulations to carry out this charge;

2. To prescribe, by rules and regulations, the minimum requirements for curricula and standards comprising the continuing education courses and for creditworthy activity.
3. To identify areas of training needed, and to suggest program refinements to training providers;
4. To review and investigate requests for extensions of time to complete continuing education hours based on disability, hardship, or other extenuating circumstances;
5. To evaluate course exceptions when presented for credit;
6. To cooperate with and secure the cooperation of every department, agency or board of the state government or its political subdivision in furtherance of the purpose of this Article;
7. To do any things necessary to enable it to perform its duties adequately and to exercise power granted to it;

### **C. Training Requirements**

#### 1. Newly certified court reporters

Each newly certified court reporter shall be required to take the first Learning Essentials About Professionalism Seminar (LEAP Seminar) authorized by the Board after their certification.

#### 2. Emergency Judicial Permit

A holder of an emergency judicial permit shall not be required to take continuing education hours during period during which the emergency judicial permit is valid.

#### 3. Yearly Requirement

Each certified court reporter shall be required to attend a minimum of 10 hours of approved training per calendar year. However, any reporter issued an initial certificate is not required to acquire credit hours for that calendar year, except that every newly certified Georgia court reporter shall complete the LEAP Seminar as required hereinabove.

## **ARTICLE 9. SUSPENSION AND REVOCATION FOR DUES AND CONTINUING EDUCATION**

### **A. Suspension.**

A certificate is automatically suspended for:

1. Failure to pay the renewal fee by April 1<sup>st</sup> each year, or

2. Failure to meet annual CE requirements.

The suspension is effective immediately upon noncompliance.

A suspended certificate may be reinstated by curing the cause of the suspension before December 31<sup>st</sup> of the year in which the suspension occurs.

**B. Revocation**

If the suspension is not cured by December 31<sup>st</sup> of the year in which the suspension occurs, the certificate is automatically revoked.

If the certificate is revoked, the reporter may become certified again only by meeting current certification requirements, and no sooner than the first day of April following the date of revocation. The revoked reporter must also pay a penalty fee as established by the Board.

This Article shall govern recertification of a reporter whose certificate was revoked under the prior Article 9 of these Rules after January 1, 2009.

## **ARTICLE 10. ETHICS**

### **A. General Ethical Requirements**

All certified court reporters in the State of Georgia shall be subject to disciplinary action by the Board according to O.C.G.A. § 15-14-33, and for violations of the Board of Court Reporting Rules and Regulation, and violations of the Code of Professional Court Reporting.

### **B. Disclosure Form for Depositions**

Each court reporter taking a deposition shall provide a copy of a disclosure form to the parties and/or their attorneys, before taking a deposition, stating the following:

1. That the court reporter is not disqualified for a relationship of interest under the provisions of O.C.G.A. § 9-11-28(c), OR a statement that discloses a permissible relationship of interest under O.C.G.A. § 9-11-28(c). If the court reporter does disclose a relationship of interest, the court reporter must obtain explicit consent of all parties to the court reporter taking the deposition despite same on the record of the deposition.
2. That the court reporter is a Georgia Certified Court Reporter.
3. That the court reporter is a sole practitioner, a representative, or an independent contractor of the XXXX court reporting firm.
4. That the court reporter was contacted by the office of (name the attorney/court reporting firm or party who called the court reporter) to provide court reporting services for this deposition.
5. That the court reporter will not be taking this deposition under any contract prohibited by Georgia law.
6. That any financial arrangements beyond the usual and customary rates have been disclosed and offered to all parties.
7. The disclosure form should be dated and signed by the court reporter.

Additionally, the applicable disclosure form(s) must be provided by the court reporter or court reporting firm who initially accepted the job from the attorney/party, as well as a separate one for each court reporter and court reporting firm who receives any financial benefit for the reporting event.

If there is a case contract involved in a reporting event, all parties should be notified as soon as possible, but at least 24 hours in advance of the deposition. Any financial arrangements beyond the reporter's usual and customary rates must be disclosed and offered to all parties. A case contract disclosure form should be used at the time of the deposition.

Sample disclosure forms in Advisory Opinion of the Board of Court Reporting # 40 may be used. A copy of the disclosure form(s) should be included in the transcript of the deposition, should a transcript be requested.

It shall be the responsibility of a court reporting firm to ensure that court reporters taking a deposition as a representative, employee, or independent contractor of the

court reporting firm comply with all requirements of this Article.

The sample forms in the Advisory Opinion of the Board of Court Reporting Number 27 are no longer approved by the Board.

### **C. Contracting and Networking**

#### **1. Prohibited Contracting**

It is prohibited for certified court reporters or court reporting firms to enter into an oral or written contractual agreement for more than one case, action, or proceeding with any attorney, party to an action, party having a financial interest in an action, including an insurance company, or an agent for any such parties. Such cases, actions, or proceedings would include a deposition, court proceeding, administrative hearing, arbitration hearing, examination under oath, or sworn statement.

To maintain professional and ethical conduct within the practice of court reporting, the following are a non-exhaustive list of further prohibited activities:

- Giving any economic or any other advantage to any party, or any party's attorney, representative, agent, insurer, or employee, without offering it to all parties. This includes failing to provide comparable services, including price or credit terms, to all parties or the certified court reporter or court reporting firm otherwise providing financial terms or other services that are not offered at the same time and on the same terms to all other parties in the legal proceeding – except that different time of payment terms may be provided based on payment experience and creditworthiness.
- Basing the compensation for the court reporting services on the outcome of the proceeding or otherwise giving the certified court reporter or court reporting firm an interest, financial or otherwise, in the action.
- Entering into an agreement for court reporting services that restricts the noticing attorney from using the certified court reporter or court reporting firm of the attorney's choosing.
- Including a court reporter or business, entity, or firm providing or arranging for court reporter services on any list of preferred providers of court reporting services that is maintained by any person, business, entity, or firm that has entered into an oral or written contractual agreement for more than one case, action, or proceeding with any attorney, party to an action, insurance company, third-party administrator, or any other person or entity that has a financial interest in the case, action, or proceedings.

- Allowing the format, content, or body of the transcript as submitted by the certified court reporter to be manipulated in a manner that increases the cost transcript.
- Providing additional advocacy or litigation support services including, but not limited to, trial preparation assistance, deposition summaries, and non-published transcript databases.

## 2. Networking

There is some confusion between the terms “contracting” and “networking” when taken in the context of court reporting. Networking and contracting by their nature imply an agreement between two parties, but there is a clear and substantial difference between the two.

“*Contracting*” in the court reporting vernacular is simply an agreement between a court reporter or reporting firm and a party to an action, an insurance company, a law firm, or a third-party administrator to provide financial or other advantages to one party to a proceeding.

“*Networking*” in the court reporting profession is generally thought of as an agreement that a freelance court reporter or court reporting firm will provide services to another court reporting firm's client. The court reporting firm providing the service essentially becomes the referring court reporting firm's subcontractor. Terms are generally negotiated beforehand, including pricing; a referral fee or networking discount being offered, if any; transcript format; production and delivery; and the required completion of certain paperwork. Succinctly, networking is an arrangement between two service providers. There can be abuses in the networking arrangement, but these networking arrangements occur between court reporting firms, and the firms themselves are not a party to the litigation when “Networking” strict adherence to the Board of Court Reporting's Disclosure and Certification requirements are essential.

### **ARTICLE 11. BASIS FOR SANCTION (REPEALED)**

~~A. The Board shall have the authority to refuse to grant a certificate or emergency judicial permit to an applicant, to revoke the certificate or emergency judicial permit of a court reporter, or to discipline a court reporter, for good cause, including, but not limited to, a finding by a majority of the entire Board that the court reporter or applicant has failed to meet the standards set forth in O.C.G.A. § 15-14-33, and/or O.C.G.A. § 15-14-37.~~

~~B. If a certificate or emergency judicial permit is denied, the applicant shall have ten days from the mailing of the notice of such denial to request reconsideration. A request for reconsideration shall be in writing and shall be accompanied by supporting evidence and argument. An applicant seeking reconsideration may request a hearing before the Board at its next regularly scheduled meeting; otherwise, the request shall be considered by a vote of the Board without a hearing.~~

~~C. It shall be the obligation of a court reporter or applicant to notify the Board of any act~~

that

~~Of may be a violation of O.C.G.A. § 15-14-33 or O.C.G.A. § 15-14-37 at the time the act occurs. Failure to notify the Board shall also constitute grounds for discipline or refusal to grant a certificate.~~

## **ARTICLE 12. GRIEVANCE PROCEDURES**

### **A. Definitions**

*“Board”* – The Board of Court Reporting of the Judicial Council of Georgia.

*“Complainant”* – One who files a complaint.

*“Complaint”* – A notarized administrative complaint filed by a party, or by the Board, against a person or entity under the authority of the Board, alleging that the person or entity is subject to discipline.

*“Respondent”* – One against whom a complaint has been filed. This may include a certified court reporter or a registered court reporting firm.

*“Response”* – A notarized written answer to a complaint that is filed by a respondent at the direction of the Board.

### **B. General Considerations**

#### 1. Time

- a. Computation of Time. Any period referenced within these rules refers to calendar days. The period begins to run on the first day following the event requiring the computation of time. When the last day of the period so computed falls on a day on which the office of the Board is closed, the period shall run until the end of the following business day. Any time-sensitive material must be received by the Board by 5:00 p.m. local time on the date upon which it is due.
- b. Extensions of Time. The Board in its sole discretion and for good reason may extend any time limit prescribed or allowed by these procedures. All requests for such extensions, including requests for postponements or continuances, shall be made by written motion submitted to the Board. The Board shall notify all parties of its action on said motion.

#### 2. Communications

- a. Communications Generally. Any communications involving a complaint and the complaint process shall be submitted to the Board in writing and submitted by mail or hand delivery, except requests for complaint forms. Copies of communications may be sent via email to

Board staff. Communications shall not be addressed to individual members of the Board or sent directly to the members of the Board.

- b. *No Ex Parte Communications.* No *ex parte* communications between the Board members and parties, or attorneys for the parties, may occur. If any *ex parte* communications do occur, the Board or its staff shall notify all parties of the communication, informing them of its substance and the circumstances of its receipt. Notwithstanding this provision, Board members or a party to the complaint may communicate with the Board's attorney or staff regarding the substance on any pending complaint.
- c. *Receipt of Communications.* All communications under these procedures are deemed filed on the date upon which they are received at the Board's principal address.

### 3. Reasonable Accommodations

The Board reserves the right, in its sole discretion, on its own motion or on that of a party, to modify these procedures for good cause, including to make reasonable accommodations for parties or witnesses involved with a complaint who are limited English proficient or who have a disability as recognized by the Americans with Disabilities Act of 1990.

### 4. Representation by Counsel for Parties

All parties may be represented by counsel at any stage of the complaint process. Counsel shall promptly enter an appearance if counsel has not previously done so by signing the complaint, answer, or notifying the Board's attorney or staff of the appearance in writing.

### 5. Representation by Attorney General's Office for Board

If a Board initiates a complaint on its own motion, it shall request the Attorney General's Office to represent its interests throughout the proceeding. If the Attorney General's Office declines to represent the body's interests, the Board will appoint a special prosecutor to represent its interests.

### 6. Limitation of Actions

No proceeding under these rules shall be brought unless a complaint has been received at the Board's office or instituted by the Board within four (4) years after the commission of the act complained of. This limitation may be tolled at any period not to exceed two years, where the respondent or the violation is unknown, or the respondent's whereabouts are unknown.

## C. Complaints

1. **Who May File:** A complaint may be filed by any party having knowledge of the subject matter of the complaint. The Board, on its own motion, may also file a complaint. Likewise, the Board may substitute itself for the complainant in any case where: the complainant is unavailable due to hardship (which includes imprisonment), unresponsiveness to the investigation, or abandonment of the complaint; the severity of the allegations in the complaint necessitates the Board's substitution; or the Board deems it necessary, in the interest of justice, to assume responsibility for the complaint.

2. **Forms**

The complaint must be submitted on the Board's approved form. All exhibits or documentation in support of the complaint must be included with the form. The complaint form must be fully completed and notarized. Forms may be obtained via the Board's website or by contacting the Board directly at:

Administrative Office of the Courts  
 % Staff Attorney  
 244 Washington St. SW, Ste. 300  
 Atlanta, GA 30334

3. **Preliminary Review**

Before the Board sends the complaint to the respondent for response, a preliminary review will be conducted. The AOC's Staff Attorney, or equivalent staff member(s), and the Director of the Office of Court Professionals, in conjunction with the chair of the Board, will review the complaint to determine whether jurisdiction may exist and whether the allegations, if true, would constitute a violation of (1) the Board's Rules and Regulations; (2) the Board's Code of Professional Ethics; or (3) Georgia statutes governing court reporting.

4. **Recommendation of Dismissal of Complaint**

The complaint may be dismissed without prejudice if preliminary review results in a finding that: (i) these Rules have not been complied with; or (ii) after construing the complaint in a light most favorable to the complaining party, that the allegations of the complaint disclose with certainty that no violation of the applicable rules or statutes has occurred, that the Board does not have jurisdiction of the matter, or that the relief sought by the complainant is not within the power of the Board.

5. **Voluntary Dismissal**

A complainant desiring to voluntarily dismiss a complaint may initiate the dismissal of the complaint without permission prior to the filing of a response. After a response is filed, the complainant shall be required to file a motion to dismiss, at which point notice shall be provided to the respondent by the Board. Dismissal is at

the sole discretion of the Board. The Board may dismiss a Board-initiated complaint without a motion.

#### 6. Request for Documents

The preliminary reviewer or Board may, at any time, require more documentation or specificity from the complainant in regards to the complaint.

#### 7. Service of Complaint

Persons and entities under the jurisdiction of the Board shall inform the Board, in writing, of their current name, mailing address, street address, e-mail address, and telephone number. The Board may rely on the information on file in any effort to communicate with, contact, or otherwise perfect service on the person or entity. If the person or entity elects to only include a post office box address to the Board, it will be deemed as a waiver of personal service. Acknowledgment of receipt of the complaint or a response will constitute conclusive evidence of service.

#### 8. Intervention

Within its sole discretion, the Board, on motion at any time during the proceeding, may permit or prohibit the intervention of parties. Any non-party desiring to intervene must file a motion with the Board specifying the grounds for intervention.

#### 9. Confidentiality

The status of a complaint will be communicated only to complainants, respondents, their attorneys, the Board members, and the Board staff. Once a complaint has been disposed of, and private discipline has been issued, no information about the complaint may be disclosed to a requestor. The discipline may be factored into subsequent disciplinary cases against the respondent. For cases where public discipline is imposed, the Board may release final disciplinary orders.

### **D. Responses**

#### 1. Response to Complaint.

Once the preliminary reviewer determines that a complaint should be answered by a respondent, it will forward a notification, via certified mail, to the respondent's address on file, enclosing the complaint therein. The respondent will have thirty (30) days to file a notarized response to the complaint. The Board may request further documentation or specificity after receiving the response.

#### 2. Request for Hearing.

Either party may request a hearing. A respondent's request must be made in writing within thirty (30) calendar days of receiving the complaint. A complainant's request must be made in writing within thirty (30) calendar days of receiving a copy of the response to the complaint. Failure to adhere to these guidelines will constitute a waiver of the hearing. It is within the Board's discretion whether it grants a hearing if the right is waived. *See* D.4. below. The Board may require a hearing even if no party requests one.

### 3. Procedure Upon Receipt of Response.

Upon receipt of a response, the Board staff shall review the response to ensure that it complies with these Rules. Rules, the Board staff shall notify the respondent that the Board will not consider the response unless the defects are corrected within fifteen (15) calendar days of receipt of notice.

- a. Non-Compliant Responses. If the response does not comply with these Rules, the Board staff shall notify the respondent that the response will not be considered by the Board unless the defects are corrected within fifteen (15) calendar days of notice to respondent of the defects. If respondent fails to correct the defects within that time, the response will not be sent to the Board by Board staff. If they are corrected, the response will then be considered a compliant response as defined in the subsection immediately below.
- b. Compliant Responses. If the response complies with these Rules or is amended to comply within fifteen (15) days, Board staff will send the complaint and response to members of the Board, as defined below, for consideration.

### 4. Secondary Review.

Once the preliminary review has been completed and the respondent has filed a response, the Board may:

- a. Dismiss the complaint so long as it finds, after assuming all facts alleged in the complaint are true, that the undisputed evidence shows that a violation has not occurred;
- b. Require further documentation from the parties;
- c. Require a hearing; or
- d. Resolve the case without a hearing if a hearing has not been requested.

If the Board chooses to require further documentation from the parties, it may still dismiss the complaint in accord with the standards above or vote to hold a hearing thereafter. In the event the complaint is dismissed, it shall be with prejudice and may not be submitted again. Future complaints containing substantially similar allegations against the same court reporter shall be dismissed if the allegations arise out of the same set of underlying facts as those in the previously dismissed complaint. A dismissal does not deprive the complainant of any remedy at law or equity. If the respondent has requested a hearing, the Board may not make a final disposition of the matter without first holding a hearing, unless the right to a hearing is waived in writing by all parties.

## E. Hearing

### 1. Notification of Hearing

In the event the Board elects to hold a hearing, the complainant and respondent shall be notified. The parties shall be given at least thirty (30) days' written notice by certified mail of the date, time, and location of the hearing. The Board staff shall arrange the hearing time and place and notify the parties and witnesses of such. The

location of the hearing may be fixed at any site in the State of Georgia, in the Board's discretion.

2. Participation of Complainant

The complainant shall appear at the hearing in person and may be represented by counsel. The Board may excuse the complainant from participation. In its sole discretion, the Board, upon advance notice, may allow or require the complainant to participate by way of a deposition, by video or telephone conference, or any combination thereof. If the complainant fails to appear, the complaint may be dismissed for failure to prosecute.

3. Participation of Respondent

The respondent shall appear at the hearing in person and shall be given an opportunity to present his or her response after a presentation of the complainant's case. Counsel may represent the respondent. In its sole discretion, the Board, upon advance notice, may allow or require the respondent to participate by way of a deposition, by video or telephone conference, or any combination thereof. If the respondent refuses or fails to appear without just cause, the Board may take appropriate disciplinary or other action in the absence of such response.

4. Hearing Officer

The hearing shall be presided over by a hearing officer. The Board may appoint one of its members or an independent third party as a hearing officer to preside over the hearing. The hearing officer's duties shall include making rulings on motions, filings, and objections and issuing a final recommendation to the Board. If the hearing officer is a member of the Board, the hearing officer may vote only if there is a tie vote among the other voting members.

5. Hearing Procedure

The hearing officer shall establish the order of the hearing. At a minimum, the complainant and respondent shall be given fair opportunity to be heard and present witnesses, including reasonable cross-examination of adverse witnesses. If there are insufficient members of the Board to constitute a quorum, then the parties may waive the requirement of a quorum, or consent to the attendance by a member by video or telephone conference, or both. Any such waiver shall be noted on the record.

6. Role of the Board

The Board may question parties or their witnesses at any time and will issue final findings of fact and conclusions of law.

7. Evidence; Burden and Standard of Proof

The Georgia rules of evidence shall apply but may be relaxed at the discretion of the hearing officer. At the hearing, the burden of proof is on the complainant to prove the alleged violation(s) by clear and convincing evidence.

#### 8. Witnesses

Witnesses may be presented at a hearing by either party or by the Board. The Board shall issue subpoenas in blank to parties and their attorneys. It shall be the responsibility of the party or their attorney to serve subpoenas according to the terms of law. No hearing shall be delayed or continued for failure of a witness to attend unless a timely motion is made. Upon motion made, and for good cause shown, any witness may testify by video or telephone conference, or by deposition, provided that the right of cross-examination is preserved. Any person who testifies shall do so under oath.

#### 9. Costs

The Board will bear the costs of recording and/or transcribing the hearing by a certified court reporter. Each party must pay for its own copy of the transcript, should it want one. The Board will bear any cost for the arrangement of space for the hearing. Otherwise, parties must bear their own costs in attending and participating in the hearing, including payment to counsel, costs of travel to and from the hearing, and any other expenses. Any party wishing to be declared indigent must make a motion setting forth the grounds for such a declaration at least ten (10) days before the hearing.

#### 10. Executive Session

The Board may enter into executive session during or after the hearing to discuss findings or issues, or vote on issues presented during a hearing. Without limiting the preceding, the Board shall have the authority to exclude any or all persons during its deliberations on disciplinary proceedings.

#### 11. Disposition

After a hearing, the Board will issue within forty-five (45) days a final disposition of the matter, in the form of written findings of fact, conclusions of law, and final order. The Board, for good cause and in its sole discretion, may determine that the time should be extended. The disposition shall be sent via certified mail, with return receipt requested, to all parties at their addresses of record.

#### 12. Informal Resolution of Complaint

Efforts to resolve the complaint informally may be initiated by the Board, the complainant, or the respondent at any time. Any resolution reached by the parties must be submitted to the Board for approval. Upon approval of any resolution reached informally, all parties shall be notified in writing of the resolution reached, and any hearing shall be canceled.

#### 13. Petition for Voluntary Discipline

At any point prior to the hearing, a respondent may petition the Board in writing to accept a petition for voluntary discipline in lieu of a hearing. If the petition is accepted, the resulting order will include all undisputed facts, the violations found, and the sanction to be administered. The order will be signed and dated by the respondent and the chair of the Board, at which point it will become effective.

Depending on the nature of the sanction imposed, the Board may choose to make the order public.

## **F. Sanctions**

### **1. Confidential Discipline**

The Board may impose confidential discipline if it finds that the respondent engaged in conduct that was inadvertent, purposeful but in ignorance of the rules, or under such circumstances that the Board concludes that the protection of the public and rehabilitation of the respondent would be best served by the issuance of confidential discipline. The discipline will not be disclosed to any parties except the include additional training, continuing education, or mentoring. Confidential discipline may take the form of either of the following:

- a. **Letter of Admonition.** A letter of admonition will be sent to the respondent by the Board staff detailing the conduct complained of, the findings by the Board, and the rules violated. A copy of the letter will be placed in the respondent's file and may be used in consideration of future discipline of the respondent.
- b. **Private Reprimand.** A private reprimand will be documented, and a document summarizing the reprimand will be placed in the respondent's file and may be used in consideration of future discipline of the respondent. Board staff will send a signed copy of the reprimand to the respondent. A private reprimand is considered the most severe form of confidential discipline.

### **2. Public Discipline.** Public discipline is a matter of public record and may be disclosed to any person. Board staff may publish public discipline on the Board's website, in a newsletter, via email, or in any other manner reasonably calculated to reach the population most likely to find the discipline relevant. The Board may impose public discipline, which may include additional training, continuing education, mentoring, or a restriction on the types of cases to be handled by the respondent in the future. Public discipline may take the form of any of the following:

- a. **Public Reprimand.** A public reprimand will be documented, and a document summarizing the reprimand will be placed in the respondent's file and may be used in consideration of future discipline of the respondent. Board staff will send a signed copy of the reprimand to the respondent.
- b. **Suspension.** The Board may suspend the respondent's certification or license for a specified term, or an indefinite term conditioned upon compliance with those reasonable conditions imposed by the Board in its final order.
- c. **Revocation.** The Board may revoke the respondent's certification or license permanently.

## G. Appeals

### 1. Appellate Body

An adverse decision of the Board of Court Reporting may be appealed to the Standing Committee on Court Reporting Matters of the Judicial Council of Georgia.

### 2. Procedure

An adverse decision may be appealed by the respondent within thirty (30) days of the Board's final disposition, by the filing of a notice of appeal with the Board staff. The Board's staff will notify the members of the Board of the appeal. The notice of appeal shall enumerate the errors complained of, shall state the grounds for each enumerated error, and shall state why the respondent contends the decision should be reversed or modified.

At the appellate hearing, the respondent shall present its argument first. After the respondent concludes, the complainant may be asked to present an argument if the complainant's presence is required. The appellate body may question the Board members (if present) as to the basis of the decision. The appellate body will deliberate outside the presence of the Board and parties.

Both the respondent and complainant are entitled to bring counsel to the appeal hearing.

### 3. Stay

The mere filing of a notice of appeal shall not stay enforcement of the Board's decision. However, if good cause is shown by the appellant, the appellate body may grant a stay against enforcement of the decision pending the appellate body's ruling on the appeal.

### 4. Transmittal of the Record

Within thirty (30) days, or within such extension time as may be allowed by the appellate body, the Board's staff shall transmit a copy of the entire record regarding the matter on appeal to the appellate body. The record will consist of the Board's decision and the evidence it considered when making that decision. The appellate body shall notify the appellant of the procedures to be followed on appeal.

### 5. Standard of Review

The appellate body will not substitute its judgment for that of the Board in regard to the weight of evidence or facts, but may reverse or modify the original decision upon a finding that substantial rights of the appellant have been prejudiced because the Board's findings, inferences, conclusions or decision are: (1) in violation of constitutional or statutory law; (2) beyond the authority of the Board in either substance or procedure; (3) clearly erroneous; or (4) arbitrary, capricious, or characterized by an abuse of discretion. Any decision by the appellate body is final.

## **H. Immunity**

The proceedings of the Board are judicial in nature. Therefore, the Board, its members, its staff, the Standing Committee on Court Reporting Matters, its members, the Administrative Office of the Courts and its staff, the Judicial Council, and members of the Judicial Council have immunity under the law from civil liability for their judicial and quasi-judicial acts.

## **ARTICLE 13. ADVISORY OPINIONS**

Any person may submit in writing to the Board a request for an Advisory Opinion. The Board may issue either Private or Public Advisory Opinions.

### **A. Private Advisory Opinions**

A Private Advisory Opinion may be requested instead of filing a Complaint, for a person who seeks guidance as to whether certain actions or conduct are permitted under the Code of Professional Ethics or the Rules and Regulations of the Board. The person requesting the Private Advisory Opinion shall include all information relevant to their request. The Board may request additional information.

The Board shall keep confidential the identity of the person requesting a Private Advisory Opinion, and the identity of the person about whom the Opinion is requested.

### **B. Public Advisory Opinions**

The Board may, from time to time, recommend publication of a Public Advisory Opinion which illuminates one or more of the provisions of the Code of Professional Ethics, or the statutes, rules, and regulations governing court reporting. These opinions may be based on facts derived from requested Private Advisory Opinions, deleting reference to the names and places of the parties, or upon an assumed statement of facts.

#### **1. Review**

The Judicial Council may review any Private or Public Advisory Opinion on its motion and may adopt, modify or reject it in whole or in part.