

**PROPOSED REGULATION OF THE CERTIFIED
COURT REPORTERS' BOARD OF NEVADA**

LCB File No. R104-19

September 8, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 656.110 and 656.130; §§2, 3 and 5-8, NRS 656.130; §4, NRS 656.130 and 656.220.

A REGULATION relating to court reporting; establishing the criteria the Certified Court Reporters' Board of Nevada must consider when making certain appointments; authorizing an applicant who takes an examination administered by the Board to request from the Board an analysis of his or her examination results, establishing the fee for such a request and requiring the Board to provide the analysis when requested; providing that courses sponsored by the National Verbatim Reporters Association are accredited for certain continuing education requirements; revising provisions relating to filing a complaint against certain persons and the procedures the Board must follow upon receiving such a complaint; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Certified Court Reporters' Board of Nevada to adopt regulations concerning the profession of court reporting. (NRS 656.130)

Existing law authorizes the Board to appoint any committee it considers necessary or proper. (NRS 656.110) **Section 1** of this regulation requires the Board to consider specific criteria when selecting a person to serve on such a committee.

Existing law requires an applicant for certification as a court reporter to satisfy certain application requirements, including the requirement that the applicant pass an examination prescribed by the Board. (NRS 656.150, 656.170) **Section 4** of this regulation: (1) authorizes the applicant to request from the Board an analysis of his or her examination results; and (2) requires a fee of \$25 to be submitted with the request.

Existing law requires court reporters and designated representatives of court reporting firms to complete requirements for continuing education under certain circumstances. (NRS 656.187, 656.200) Existing regulations provide that court reporters and designated representatives of court reporting firms may receive continuing education credit for the completion of programs or courses of study offered or approved by the National Court Reporters Association. (NAC 656.240) **Section 5** of this regulation additionally authorizes court reporters and designated representatives of court reporting firms to receive continuing education credit for

the completion of programs or courses of study offered or approved by the National Verbatim Reporters Association.

Existing law makes it unlawful for: (1) a natural person who does not possess a valid certificate to engage in the practice court reporting; and (2) a business entity that does not possess a valid license to conduct business as a court reporting firm. (NRS 656.300) Existing regulations provide that a person or the Board may file an informal complaint concerning the acts of or services provided by the holder of a certificate or license. (NAC 656.420) **Section 6** of this regulation additionally authorizes a person or the Board to file an informal complaint against: (1) a designated representative of a court reporting firm; and (2) a person who does not hold a certificate or license but engages in activities or services which require a certificate or license. Additionally, **section 6** requires the complaint to: (1) be verified by the complainant; and (2) include certain information and documents.

Existing regulations authorize the Board to take certain actions in its review and investigation of an informal complaint. Specifically, existing regulations authorize the Board to demand records or other evidence from a respondent. (NAC 656.430) If certain respondents do not comply with a demand from the Board, **section 7** of this regulation authorizes the Board to refer the matter to the Office of the Attorney General for further action, including, without limitation, possible prosecution.

Existing regulations set forth various procedures followed by the Board in: (1) filing a formal complaint against a respondent; and (2) scheduling a hearing on the formal complaint. (NAC 656.440) **Section 8** of this regulation revises the procedures to: (1) give the Board discretion to offer certain alternative dispute resolution procedures, such as mediation or the use of a settlement agreement, in the handling of complaints that are found to be credible; and (2) authorize the Board to consolidate two or more complaints in a single hearing under certain circumstances.

Sections 2 and 3 of this regulation make conforming changes.

Section 1. Chapter 656 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The Board will select persons to serve on any committee appointed pursuant to NRS 656.110.

2. To qualify for selection, the person must:

(a) Be a resident of Nevada;

(b) Not be the subject of any current or previous disciplinary action before the Board;

(c) Have no actual or potential conflict of interest regarding the subject matter of the committee; and

(d) Be a person whom the Board believes to be of recognized integrity and relevant ability.

3. In addition to any qualification required pursuant to subsection 2:

(a) If the person is a court reporter or designated representative of a court reporting firm, the person must be compliant with the requirements for registration, payment of fees and continuing education, as applicable, set forth in this chapter and chapter 656 of NRS.

(b) If the person is not a court reporter or designated representative of a court reporting firm, the person must be a citizen of the United States.

Sec. 2. NAC 656.035 is hereby amended to read as follows:

656.035 “Complainant” means any person who submits a written complaint to the Board ~~[regarding any act of a holder of a certificate or license.]~~ *pursuant to NAC 656.420.*

Sec. 3. NAC 656.070 is hereby amended to read as follows:

656.070 “Respondent” means a ~~[holder of a certificate or license]~~ *person* who is charged in ~~[a formal or]~~ *an* informal complaint ~~[with a violation of a provision of this chapter or chapter 656 of NRS.]~~ *pursuant to NAC 656.420 or a complaint pursuant to NAC 656.440.*

Sec. 4. NAC 656.150 is hereby amended to read as follows:

656.150 1. Not more than 8 weeks after the administration of the examination, the Board will, at a public meeting held for that purpose, certify the score of each applicant who took the examination. As soon as practicable after conducting the public meeting, the Board will provide official written notice to each applicant of the results of the examination of the applicant. The results of an examination must not be given to an applicant by telephone.

2. After the Board provides official notice of the results of the examination, a successful applicant may submit an application for a certificate on a form provided by the Board. The application must include:

- (a) The fee required by NAC 656.200 for the original issuance of a certificate;
- (b) The residential address and telephone number of the applicant;
- (c) The business address and telephone number, if any, of the applicant;
- (d) The date on which the applicant successfully passed the examination;
- (e) In accordance with NRS 656.155, the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520; and
- (f) Complete answers to the questions contained on the form.

↪ Upon receipt of a complete application, the Board will process an application for a certificate.

3. A successful applicant shall not practice court reporting in this State until he or she receives a certificate from the Board.

4. After the Board provides official notice of the results of the examination, an applicant who took the examination may request an analysis of his or her examination results by subject matter. The request must:

- (a) Be submitted on a form provided by the Board; and*
- (b) Include a fee of \$25.*

↪ *Upon receipt of a complete request, the Board will process the request for analysis.*

5. Nothing in this section shall be construed to authorize an applicant to review his or her examination.

Sec. 5. NAC 656.240 is hereby amended to read as follows:

656.240 1. A sponsor of a program or course of study for continuing education may submit to the Board, on a form provided by the Board, a request for accreditation of the program or course. The form may be submitted either before or after the program or course has been offered.

2. A court reporter or designated representative of a court reporting firm who attends a course of instruction not accredited by the Board may submit, on a form provided by the Board, a request for accreditation of the course.

3. The Board will determine whether programs or courses of study offered by a sponsor or taken by a court reporter or designated representative of a court reporting firm are to receive accreditation, and the Board will set forth the terms and conditions for the accreditation of the programs or courses of study.

4. The Board will determine the number of hours of credit each participant is entitled to receive for attendance or participation in a program or course of study.

5. The Board will approve courses of study, upon written request, at the next open meeting of the Board after receipt of the request.

6. To be approved, a course of study must directly relate to the skills and knowledge required to engage competently in the practice of court reporting and must be made available to each court reporter and designated representative of a court reporting firm in this State. Such courses of study may relate to:

(a) Strengthening the participant's understanding of the English language, including, but not limited to, the following areas:

(1) Reading;

(2) Spelling;

- (3) Vocabulary; and
- (4) Medical and legal terminology;
- (b) Increasing speed;
- (c) Technological advances in the field of court reporting;
- (d) The applicable laws, regulations, and court and procedural rules governing the practice of court reporting in this State;
- (e) Ethics and professionalism in the field of court reporting;
- (f) Substance abuse;
- (g) Management of the business affairs and the economics of court reporting; or
- (h) Any other subject which the Board determines to be appropriate.

7. Each court reporter or designated representative of a court reporting firm who completes a program or course of study offered or approved by the National Court Reporters Association , *the National Verbatim Reporters Association* or a sponsor designated or approved by the Board as an accredited sponsor is entitled to receive credit for continuing education.

Sec. 6. NAC 656.420 is hereby amended to read as follows:

656.420 1. A person may file an informal complaint with the Board or the Board may, on its own initiative, cause an informal complaint to be filed concerning the acts of or services provided by ~~{a}~~ :

- (a) *A holder of a certificate or license ~~{+}~~;*
- (b) *A designated representative of a court reporting firm; or*
- (c) *A person who:*
 - (1) *Is not the holder of a certificate or license; and*
 - (2) *Performs an act or service that requires a certificate or license.*

2. Each informal complaint must ~~be~~ :

(a) *Be* filed with the Board on a form provided by the Board ~~[. A complainant shall include in his or her informal complaint information]~~ ; *and*

(b) *Include:*

(1) *Information* that is sufficiently detailed so as to enable the Board to investigate and ~~verify~~ *the respondent to prepare a defense to* each accusation set forth in the informal complaint ~~[.]~~ ;

(2) *All documentation referenced in the complaint and all other documentation that would be useful to the staff of the Board in its review; and*

(3) *The signature of the complainant verifying, by oath, that the complaint and the documentation provided with the complaint are true to the best of his or her knowledge;*

3. Upon receipt of an informal complaint, the staff of the Board shall examine the informal complaint to determine whether it:

(a) Is within the jurisdiction of the Board;

(b) Has been properly verified; and

(c) Alleges sufficient facts to warrant further proceedings.

4. If the staff of the Board determines that an informal complaint does not meet the requirements of subsection 3, the Board or the staff of the Board shall so inform the complainant. If the staff of the Board determines that an informal complaint meets the requirements of subsection 3, the staff shall notify the respondent by certified mail. The notice must include:

(a) ~~[A statement setting forth each violation of this chapter or chapter 656 of NRS alleged in the informal complaint;~~

~~—(b)]~~ A copy of the informal complaint; and

~~{(e)}~~ **(b)** A request for a written response for review by the staff of the Board ~~{-}~~ **which includes, without limitation, the date by which the response must be submitted to the Board pursuant to subsection 5.**

5. ~~{The transmission of a notice pursuant to subsection 4 will be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127. Upon receipt of a copy of an informal complaint filed against a court reporter or a court reporting firm, the}~~ **The** respondent shall submit to the Board a written response within 30 days after the service of the notice. The written response must:

- (a) Address each allegation set forth in the informal complaint; and
- (b) Be accompanied by all documentation referenced in the response and all other documentation that would be useful to the staff of the Board in its review.

6. Failure by a respondent to cooperate with ~~{the Board or}~~ the staff of the Board during an investigation of an informal complaint filed against the respondent, including, without limitation, failure by the respondent to respond ~~{in a timely manner}~~ **by the date on which the response is due** regarding the informal complaint, is a ground for disciplinary action.

7. If a respondent fails to respond ~~{in a timely manner to an informal complaint pursuant to subsection 5,}~~ **by the date on which the response is due**, the respondent shall be deemed to have admitted each allegation set forth in the informal complaint. The Board may, based on such an admission, impose appropriate disciplinary action against the respondent.

Sec. 7. NAC 656.430 is hereby amended to read as follows:

656.430 1. ~~{If a response is filed pursuant to subsection 5 of NAC 656.420 and the Board does not settle the matter, the staff of the Board shall review the informal complaint and the responses made thereto, may enlist the aid of a member of the Board or any other qualified~~

~~person in conducting the review and may take any other reasonable action required to further the review.~~ After reviewing the informal complaint and the responses ~~{thereto,}~~ **filed pursuant to NAC 656.420**, the staff of the Board may:

(a) Investigate each allegation set forth in the informal complaint ; ~~{and employ any person required by the staff to further the investigation;}~~

(b) Consult with a person who is an expert in an appropriate field, including, without limitation, employing such a person for the purpose of an investigation or hearing;

(c) Investigate any new information discovered or allegation made during the course of the investigation;

~~{(d) Enlist the aid of a member of the Board or any other qualified person to conduct the investigation;}~~ and

~~{(e)}~~ **(d)** Take any other reasonable action required to **conduct or** further the investigation ~~{-}~~, **including, without limitation, employing or enlisting the aid of any qualified person.**

2. During an investigation of an informal complaint, the staff of the Board or any investigator employed by the staff may demand that the respondent produce records or other evidence for inspection or copying, with or without a subpoena. A respondent shall not deny any such demand for records or other evidence if the record or evidence is not confidential as provided by law. If a respondent **is a person described in paragraph (b) or (c) of subsection 1 of NAC 656.420 and the person** refuses or fails to cooperate with a request for records in violation of this section, the Board may ~~{immediately suspend the certificate or license of the respondent until the respondent complies with the request.}~~ **refer the matter to the Office of the Attorney General for further action including, without limitation, possible prosecution.** If ~~{the}~~ any respondent continues to refuse or fails to comply with a request for records or other evidence in

violation of this section, the Board may take such further ~~{disciplinary}~~ action against the respondent as the Board determines necessary.

3. If the staff of the Board or any investigator employed by the staff determines that a record or other evidence is required for an investigation, the staff or investigator may copy the record or evidence. If the record or other evidence can be readily copied at the location of the record or evidence, the respondent shall copy the record or evidence and submit the copy to the staff or investigator at that location. If a record or other evidence cannot be readily copied at the location of the record or evidence, the respondent shall copy the record or evidence and submit the copy to the staff or investigator within 10 business days after the staff or investigator requests the record or evidence.

Sec. 8. NAC 656.440 is hereby amended to read as follows:

656.440 1. When an investigation of an informal complaint is complete, the staff of the Board or any investigator employed by the staff shall determine whether a preponderance of evidence exists to sustain ~~{the}~~ *an* alleged violation of a statute or regulation . ~~{set forth in the informal complaint.}~~ If the staff or the investigator determines that no allegation of a violation of a statute or regulation ~~{set forth in the informal complaint}~~ is sustainable, the staff shall provide a written notice of that determination to the respondent and the complainant. If the staff or the investigator determines that an allegation of a violation of a statute or regulation ~~{set forth in the informal complaint}~~ is sustainable, the Board or the legal counsel for the Board : ~~{shall:}~~

(a) ~~{Offer}~~ *May offer* to:

- (1) Engage in mediation ~~{:}~~ *between the respondent and the staff of the Board;*
- (2) Enter into a settlement agreement;
- (3) Stipulate to any fact or to the existence or extent of any liability; or

(4) Conduct any informal hearing ~~;~~ ~~and~~.

↪ *If any such offer is made, the respondent must respond to the offer not more than 30 days after the date that the offer is made.*

(b) ~~It~~ *Shall, if the actions set forth in paragraph (a) are not offered, or are offered but the actions do not resolve the informal complaint ~~;~~ within 90 days after the offer is accepted by respondent, prepare a notice of hearing and a ~~formal~~ complaint.*

2. The notice of hearing and the ~~formal~~ complaint prepared pursuant to subsection 1 must:

(a) Set forth a plain statement of the facts asserted and any applicable provision of the statute or regulation allegedly violated by the respondent;

(b) Include the date, time and place for the hearing ~~;~~ *and the nature of the hearing;*

(c) *Include a statement of the legal authority and jurisdiction under which the Board is holding the hearing; and*

(d) Be signed by the legal counsel for the Board . ~~[and, if a member of the Board participated in the investigation, by that member of the Board.]~~

3. If a notice of hearing and a ~~formal~~ complaint are prepared pursuant to subsection 1, the staff of the Board shall, by certified mail, send the notice of hearing and ~~formal~~ *the* complaint to the *named* respondent . ~~[named in the notice of hearing and formal complaint.]~~ *The transmission of the notice will be deemed to be a notice of intended action pursuant to NRS 233B.127.*

4. A respondent who receives a notice of hearing and a ~~formal~~ complaint pursuant to subsection 3 shall file an answer to the notice of hearing and the ~~formal~~ complaint not later than 20 days after the date of service of the notice of hearing and ~~formal~~ *the* complaint.

5. The Board may ~~{join}~~ *consider* two or more ~~{formal}~~ complaints ~~{into}~~ *in* a single ~~{formal complaint}~~ *hearing* if:

(a) The causes of action set forth in each ~~{formal}~~ complaint are against the same ~~{person and allege the same or substantially similar violations of statutes or regulations;}~~ *respondent*; and

(b) The ~~{joining of the formal complaints will serve the best interests of the}~~ Board ~~{, complainants and respondent.}~~ *determines that good cause exists, including, without limitation:*

(1) That such a hearing provides for the:

(I) Convenience of witnesses;

(II) Orderly presentation of evidence; or

(III) Conservation of resources; or

(2) Any other reason that secures or is intended to secure the just, speedy or inexpensive resolution of the complaints.

6. *All parties to a hearing, their counsel and spectators shall conduct themselves in a respectful manner.*