

**RULES  
OF  
TENNESSEE BOARD OF COURT REPORTING**

**CHAPTER 0455-01-05  
DISCIPLINARY ENFORCEMENT**

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**0455-01-05-.01 DEFINITIONS.**

- (1) Reprimand: A formal or informal correspondence notifying the court reporter of a finding of an ethical violation with no further disciplinary action.
- (2) Fine: A monetary penalty of no more than \$1,000 per day imposed by the Board
- (3) Probation: The monitored practice of court reporting which permits the court reporter to continue to practice pursuant to specified conditions as set forth by the Board.
- (4) Suspension: The temporary withdrawal of the license by the Board.
- (5) Revocation: The withdrawal of the license by Board action.
- (6) Voluntary Surrender: The voluntary relinquishment of a license that has the force and effect of a revocation.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

**0455-01-05-.02 GROUNDS FOR DENIAL OF A LICENSE.**

The following may be grounds for denial of a license:

- (1) Failure to meet any requirement or standard established by law or by rules and regulations adopted by the Board.
- (2) Engaging in fraud, misrepresentation, deception, or concealment of a material fact in applying for or securing licensure or taking any examination required for licensure.
- (3) Having disciplinary action pending or having a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory or country.
- (4) Having been court-martialed or administratively discharged by a branch of the United States Armed Forces for any act or conduct that would constitute grounds for discipline.
- (5) Any other reason authorized by law.

(Rule 0455-01-05-.02, continued)

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-609, 20-9-610 and 20-9-612. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

**0455-01-05-.03 GROUNDS FOR DISCIPLINE OF A LICENSEE OR DENIAL OF RENEWAL OR REINSTATEMENT.** The Board may fine, suspend, revoke or otherwise discipline any court reporter upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license by:
  - (a) Filing false, forged or altered documents or credentials, including required continuing education documentation.
  - (b) Misrepresenting or falsifying facts in applying for original licensure, renewal, reactivation or reinstatement of license.
  - (c) Having another person appear for a licensing or certification examination.
- (2) Has been convicted of a felony or a crime of moral turpitude that reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter in other respects.
- (3) Is impaired due to the use of alcohol, or is addicted to the use of habit-forming drugs to such an extent as to render the court reporter unsafe or unreliable, which includes, but is not limited to:
  - (a) A pattern of abuse or misuse of alcohol or illegal drugs.
  - (b) Impairment while on duty due to the use of drugs or alcohol.
  - (c) The use of alcohol or illegal drugs to the extent that medical or psychiatric treatment, rehabilitation or counseling is medically determined or otherwise recommended by a legally authorized practitioner.
- (4) Is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters of court reporting, which includes but is not limited to:
  - (a) Failure to comply with the Tennessee Court Reporting Act and Rules and Regulations as well as federal, state or local laws, rules or regulations applicable to the area of court reporting practice.
  - (b) Failure to practice court reporting in accordance with the standards of practice adopted by the Board.
  - (c) Practice beyond the scope of practice as determined by, but not limited to educational preparation; license status; state and federal statutes and regulations; state and national standards appropriate to the type of practice; and court reporting experience.
  - (d) Falsification of credentials,
  - (e) Falsification of employment records, and
  - (f) Representing oneself as a court reporter without a license.
  - (g) Having a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory or country, or having been court-martialed or administratively discharged by a branch of the United States Armed Forces for any act or conduct which would constitute grounds for

(Rule 0455-01-05-.03, continued)

disciplinary action in this state. A certified copy of the record of the agency that took such action shall be conclusive evidence of the grounds for discipline.

- (5) Has failed to respond to official Board correspondence, including but not limited to requests for information, subpoenas, or notices.
- (6) Has willfully or repeatedly violated any of the provisions of a statute or rule by conduct that includes but is not limited to:
  - (a) Practicing or seeking to practice court reporting without a current license.
  - (b) Impersonating an applicant for licensure or another licensed practitioner or permitting or allowing another person to use the court reporter license.
  - (c) Continued violation of statute or rule after notice by the Board.
  - (d) Failure to comply with any stipulated terms and conditions of any Board order or contract.
- (7) Failed to comply with continuing education requirements.
- (8) Submitted payment of any fees or fines to the Board with a worthless check, invalid credit card, or by any other method that is not honored by the financial institution.
- (9) Authorized Court Reporter License number to be used on any transcript not produced through his or her personal effort or supervision, or both, or otherwise committed a prohibited act described in Rule 0455-01-01-.04(9).
- (10) Poses a risk to public safety for any other reasons stated by law.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-608, 20-9-609, 20-9-610, 20-9-611 and 20-9-612. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.04 INVESTIGATION.**

- (1) Upon self-disclosure or receipt of a written complaint on a TBCR Consumer Complaint Form signed by the person making the complaint, alleging that a court reporter has violated a statute or rule by committing one or more of the actions specified as grounds for disciplinary action, the Disciplinary Counsel, to be designated by the Board, shall perform a preliminary review to determine if there is merit and sufficient evidence to warrant formal proceedings. The Consumer Complaint Form must be complete before an investigation is launched. Complaints must be submitted to the Board within ninety (90) days of the alleged occurrence, or within ninety (90) days of the discovery of a violation.
- (2) When the Disciplinary Counsel determines there may be merit and sufficient evidence exists to warrant proceedings, a hearing committee shall be formed consisting of three members, one of which must be an attorney and one of which must be an official state court reporter.
  - (a) Within five (5) days of self-disclosure or receipt of a written complaint, the Disciplinary Counsel shall provide the court reporter, against whom the complaint was made, written notification of the complaint, allegation(s), and investigation process by certified mail or other delivery service that provides confirmation of delivery. The court reporter may submit, to the Disciplinary Counsel, a written response and any supporting documentation within 15 days of the receipt of the written notification.

(Rule 0455-01-05-.04, continued)

- (b) The committee shall review the complaint and other information submitted to determine if further investigation is warranted.
    1. If an investigation is warranted, the Disciplinary Counsel will conduct further investigation, retaining an investigator, if necessary. If retained, the investigator shall work under the direction of the Disciplinary Counsel to conduct further investigation.
    2. At the conclusion of the investigation, the investigator shall submit an investigation report to be reviewed by the Investigative Committee who has the authority to act on the report. The Investigative Committee shall send written notification to the complainant and the court reporter, against whom the complaint was made, of any action it decides to take in response to the investigation report.
  - (c) If the committee determines that an investigation is not warranted, the Disciplinary Counsel may close the investigative file, provided that the matter may be reinvestigated at any time if circumstances so warrant. The Disciplinary Counsel shall notify the complainant and the court reporter, against whom the complaint was made.
- (3) When a preliminary review discloses that further investigation is not warranted, the Disciplinary Counsel may close the investigative file, upon approval of the Chair of the Board, provided that the matter may be reinvestigated at any time if circumstances so warrant.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.05 BOARD ACTION FOLLOWING INVESTIGATION.**

The Board or its authorized designee shall have the power to act on the report of the investigation as follows:

- (1) Dismiss complaint.
- (2) Commence disciplinary proceedings.
- (3) Accept voluntary surrender of a license.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.06 UNIFORM ADMINISTRATIVE PROCEDURE ACT.**

The Board hereby adopts by reference as its rules the Uniform Administrative Procedure Act, T.C.A. Title 4, Chapter 5, for governing contested cases, appeals, and related proceedings.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.07 FORMAL DISPOSITION OF CONTESTED CASES.**

- (1) At least twenty one (21) days prior to the administrative hearing, a notice of hearing and a copy of the charges shall be served on the applicant or court reporter personally or by registered or certified mail to the last known address shown on the records of the Board.

(Rule 0455-01-05-.07, continued)

- (2) The Board's complaint may be amended prior to the hearing but no amendment shall be permitted which is not germane to the charge or charges or which materially alters the nature of any offense charged. The Board shall have the right to determine the sufficiency of the complaint.
- (3) A motion for withdrawal of the complaint may be filed with the Board's designee. The circumstances surrounding the attempt to withdraw the complaint may be explained by the person who is attempting to withdraw the complaint and the explanation shall be considered. No complaint that is well-founded will be dismissed solely upon the motion of the original complainant.
- (4) Pleadings relating to disciplinary proceedings pending before the Board shall be filed with the Board's designee. Pleadings shall be deemed filed upon actual receipt.
- (5) Requests for subpoenas shall be filed with the Board at least ten (10) days prior to the hearing along with the appropriate subpoena-processing fee. Any expense for service by a sheriff, process server or other entity shall be the responsibility of the party requesting the subpoena. Any expenses incurred relative to subpoenas requested by a respondent, either for witnesses or related to production of documents are the responsibility of the party who requested the issuance of said subpoena.
- (6) The hearing shall be conducted by the Board in the presence of a hearing officer or by a hearing officer, pursuant to T.C.A. § 4-5-301. All testimony shall be under oath and shall be transcribed by a court reporter scheduled by the Board. Telephonic or other real-time electronic testimony is admissible at the discretion of the hearing officer.
- (7) A continuance may be granted by the Board or its designee upon the filing of a written motion and affidavit detailing the reasons for the continuance. No motion for continuance shall be granted unless filed at least five days prior to the hearing. This provision may be waived upon showing of an emergency.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.08 INFORMAL DISPOSITION OF CONTESTED CASES.**

- (1) Complaints or controversies may be considered and resolved by the Board or Board designee through alternative dispute resolution, informal conferences, meetings, or other informal means. Such informal measures shall be held without prejudice to the right of the Board thereafter to institute formal proceedings based upon the same or related material if circumstances so warrant.
- (2) Informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing and as approved by the Board.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.09 DECISIONS OF THE BOARD.**

- (1) Based upon the evidence presented at the administrative hearing or pursuant to informal disposition the Board action may be one or more of the following:
  - (a) Dismiss the complaint.

(Rule 0455-01-05-.09, continued)

- (b) Reprimand the respondent.
  - (c) The respondent's license placed on probation status, subject to any conditions imposed.
  - (d) Suspend the respondent's license. A suspended license is subject to expiration during the suspension period.
  - (e) Revoke the respondent's license.
  - (f) Deny approval of an application.
  - (g) Deny renewal or reinstatement of a license.
  - (h) Impose other sanctions, restrictions or conditions.
- (2) The Board may levy a fine not to exceed one thousand dollars (\$1,000) per violation. Each day of a violation after notice is considered a separate violation.
  - (3) The decisions of the Board shall be in writing in the form of an order, a copy of which shall be mailed or delivered to the respondent or the respondent's attorney.
  - (4) The decisions of the Board shall be subject to public dissemination.
  - (5) Appeals may be made pursuant to the Uniform Administrative Procedure Act provisions on contested cases, T.C.A. Title 4, Chapter 5, Part 3.
  - (6) All members of the Board, including the Chair, are entitled to vote and to make or second motions in disciplinary matters except for any Board Member who may also serve on the Investigative Committee, serve as the Complainant, or have a conflict of interest in the case being decided. A majority of those members on the Board present and voting on any matter shall decide that matter before the Board.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

#### **0455-01-05-.10 APPLICATION FOLLOWING DENIAL OF LICENSURE.**

- (1) Application for a license following denial of licensure shall:
  - (a) Include evidence of rehabilitation, or elimination or resolution of the conditions for denial.
  - (b) Re-application must be at least twelve (12) months after the denial.
- (2) Board action on applications following denial of licensure may be resolved either informally or through the formal hearing process.
- (3) In considering a subsequent application for licensure, the Board may evaluate factors that include but are not limited to:
  - (a) The severity of the act(s) or omission(s) which resulted in the denial of license.
  - (b) The conduct of the applicant subsequent to the denial of license.
  - (c) The lapse of time since denial of license.

(Rule 0455-01-05-.10, continued)

- (d) Compliance with any conditions stipulated by the Board as a prerequisite for a subsequent application.
- (e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.
- (f) Whether the applicant is in violation of any applicable statute or rule.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.

**0455-01-05-.11 REINSTATEMENT OF A REVOKED LICENSE.**

- (1) Application for reinstatement:
  - (a) May be made twelve months after the effective date of revocation unless otherwise specified in Order or Agreement.
  - (b) Shall be made according to forms and guidelines provided by the Board.
- (2) Applications for reinstatement of a revoked license may be resolved informally or through the formal hearing process.
- (3) In considering reinstatement of a revoked license, the Board may evaluate factors that include but are not limited to:
  - (a) Severity of the act(s) that resulted in revocation of the license.
  - (b) Conduct of the applicant subsequent to the revocation of license.
  - (c) Lapse of time since revocation.
  - (d) Compliance with all reinstatement requirements stipulated by the Board.
  - (e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.
  - (f) Whether the applicant is in violation of any applicable statute or rule.
  - (g) Directly or by implication represented in any way that the person was a licensed court reporter during the period of revocation.

**Authority:** T.C.A. §§ 20-9-605, 20-9-606, 20-9-607 and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010.