



THE SUPREME COURT *of* OHIO

REPORT *and* RECOMMENDATIONS *of*
THE SUPREME COURT *of* OHIO

Task Force on the Certification of Court Reporters



JUNE 2007

REPORT AND RECOMMENDATIONS OF
THE SUPREME COURT *of* OHIO
TASK FORCE ON THE CERTIFICATION
OF COURT REPORTERS



Honorable Mary Donovan, Chair

June 2007

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THE SUPREME COURT *of* OHIO

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INTRODUCTION

Court reporters play a vital role in the administration of justice. As the “guardians of the record,” as they are oft-times referred, these individuals are charged with the important task of ensuring the accuracy and security of the court record, which are essential elements in maintaining public confidence in the judicial process.

Recognizing the importance court reporters play in Ohio’s judicial system, on March 18, 2006 Chief Justice Thomas J. Moyer announced the creation of the Supreme Court of Ohio’s Task Force on the Certification of Court Reporters. The Task Force was charged with “developing a process by which individuals serving as court reporters in Ohio courts will meet certain standards.”

In response to this charge, the Task Force presents the 17 recommendations outlined in this report. These recommendations reflect the key elements of the certification system envisioned by the Task Force and are based upon a central goal – ensuring the accuracy and security of the court record. Additionally, the recommendations embody the 12 months of deliberation and labor the Task Force dedicated to that goal.

The Task Force began its work with a review of the regulatory systems from a number of other states, including Arizona, Arkansas, Georgia, Illinois, Michigan, Missouri, Nevada, New Hampshire, and Utah. From this review, which included both legislative enactments and court rules, the Task Force was able to obtain an understanding and appreciation of court reporter certification, which formed the basis of its further work.

Following this initial stage, the Task Force turned to crafting recommendations for the establishment of a certification process tailored to the needs of the Ohio judicial system. In doing so, the Task Force faced one of its most important challenges – identifying the various methods of court reporting used throughout the state, both inside and outside the courtroom, and deciding which of those various methods should be subject to the certification requirement.

Although court reporting is a profession with roots in the recorded speeches of the Roman Senate more than 2,000 years ago, it has evolved with changes in technology over the years. However, irrespective of its manner of creation and production, it is the accuracy and security of the record that remains paramount. As a result, the Task Force members decided the certification requirement should apply not only to traditional stenographic reporters and verbatim reporters, but also electronic operators, electronic recorders, and transcriptionists.

With this determination made, the Task Force adopted the various recommendations which comprise its proposed certification system. For example, the Task Force recommends the creation of a Supreme Court Commission on Court Reporters to oversee the status of certified court reporters in the state with the attendant authority to adopt regulations needed to implement certification. Additionally, the Task Force made several recommendations concerning conditional certification, reciprocity, prior service as a court reporter, continuing education, and revocation and suspension of certification.

In presenting the 17 recommendations outlined in this report, the Task Force is mindful of the benefits their implementation will provide. As the Chief Justice noted to the Task Force members, certification of court reporters will announce to all Ohioans that court reporters must meet rigorous standards. Additionally, it will ensure both the spoken word and all evidence are captured and preserved, sending a clear message that each case before the court affecting property and liberty will produce a complete, accurate, and secure legal record. But ultimately, certification will increase public confidence in the courts.

With these benefits in mind and based upon its examination of the issues related to certification of court reporters in the state, the Task Force submits this report and recommendations to the Supreme Court of Ohio.

REPORT AND RECOMMENDATIONS

I. CLASS OF INDIVIDUALS TO BE CERTIFIED

Introduction:

When establishing any form of certification system, one of the initial steps is to ascertain the subject or subjects of the certification requirement since the specific nature and scope of that system is dependent upon the class of individuals to be certified. Thus, the first step in establishing court reporter certification in Ohio is to identify the class of individuals to whom the system will apply.

Recommendation 1:

The Task Force recommends the following individuals be included in the definition of “court reporter” and be required to obtain certification:

- **Electronic operators - Individuals who operate the electronic recording equipment used to record proceedings for a court of the state and prepare logs of those proceedings.**
- **Electronic recorders - Individuals who operate the electronic recording equipment used to record proceedings for a court of the state and prepare logs and transcripts of those proceedings.**
- **Stenographic reporters - Individuals who use a stenographic machine or shorthand to record proceedings for a court of the state and prepare logs and transcripts of those proceedings.**
- **Transcriptionists - Individuals who prepare a printed transcript to be filed with a court of the state.**
- **Verbatim reporters - Individuals who use a mask or voice-writing system to record proceedings for a court of the state and prepare logs and transcripts of those proceedings.**

Discussion:

The Task Force engaged in significant discussion and debate regarding the various categories of individuals who should be subject to certification. It became clear at its earliest meetings that the term “court reporter” was used by members of the bench and bar to describe a wide variety of individuals who create and/or transcribe the record using different means of capturing the spoken word.

The Task Force decided it was imperative to define terms and identify all classes of individuals who create and preserve the record, both inside and outside Ohio courts. It concluded that since an accurate history of the proceedings, both pretrial and at trial, is vital to the work of the courts, it is absolutely necessary that whoever makes and/or transcribes the record should do so in accordance with rigorous standards to maintain accuracy and security.

The Task Force recognizes that many courts use a traditional stenographer for depositions, as do many court-reporting firms and companies. However, an increasing number of courts currently utilize analog audio tape recording, digital audio recording, digital video recording, and VHS recording, and the ever-changing nature of technology constantly makes new methods of preserving testimony available. The Task Force’s goal was to classify each category of individuals who are responsible for the creation and production of the record for use at the trial and appellate level. The Task Force concluded that all such individuals, regardless of their method of recording and regardless of whether they work in court or freelance, should be certified by the state to maintain quality assurance.

The Task Force developed five categories of individuals: electronic operators, electronic recorders, stenographic reporters, transcriptionists, and verbatim reporters. These categories are patterned after those categories of individuals who must be licensed in Michigan.

As should be apparent by the definitions, these categories cover not only traditional methods of court reporting, but also a wide variety of individuals who utilize advanced recording technologies to create records of and preserve court proceedings. In addition, the Task Force included transcriptionists, recognizing some courts use outside resources to create an appellate record from various medium, such as CD, DVD, or VHS recording. Each of these individuals should demonstrate competency, as well as some appreciation and understanding of what constitutes a complete record (i.e., side bars, exhibits and evidence logs, among other things).

The Task Force concluded that a certification process focused upon these classifications of individuals will ensure accuracy, reliability, and completeness of the record. Any individual responsible for the creation and/or production of the record must be competent and cognizant of the demands for thoroughness and accuracy, as well as demonstrate a true appreciation for the needs and expectations of the litigants and the court.

II. CREATION OF A GOVERNING BODY

Introduction:

An additional step to be considered when establishing a certification system is the inclusion of some manner for governance, especially if certification involves more than just simple regulatory functions or requirements. Given the scope and nature of the court reporter certification system proposed by the Task Force, a governing body or group should be created and charged with implementing and overseeing the day-to-day functions related to court reporter certification and enforcement of the certification requirement.

Of equal concern is the composition of this governing body or group. The work of court reporters impacts a wide spectrum of individuals and groups in our society. As a result of that impact and the effect certification has upon the court reporting profession, it is important the governing body or group consist of various stakeholders, so diverse points of view may be offered and considered.

Recommendation 2:

The Task Force recommends the Supreme Court establish the “Supreme Court Commission on Court Reporters” to oversee the certification of court reporters in the state. The Commission should consist of the Chief Justice of the Supreme Court or the Chief Justice’s designee and the following 10 individuals, to be appointed by the Supreme Court:

- **One judge of a court of appeals,**
- **One judge of the general division of a court of common pleas,**
- **One judge of a municipal court,**
- **One court reporter who is a resident of the state and has been an official stenographic reporter employed by a court of the state for at least five years,**
- **One court reporter who is a resident of the state and has been a freelance court reporter for at least five years,**
- **One electronic recorder who is a resident of the state and has been employed by a court of the state for at least five years,**
- **One prosecuting attorney who is a resident of the state and has been licensed to practice law in the state for at least five years,**

- **One public defender who is a resident of the state and has been licensed to practice law in the state for at least five years,**
- **One attorney practicing in civil litigation who is a resident of the state and has been licensed to practice law in the state for at least five years,**
- **One officer or past officer of the Ohio Court Reporters Association.**

Discussion:

Given the scope and nature of the proposed court reporter certification system, the Task Force readily concluded the Supreme Court should establish some form of governing body or group. To this end, the Task Force recommends the Supreme Court create the “Supreme Court Commission on Court Reporters” and charge it with general powers and duties to implement and oversee court reporter certification in Ohio. Additionally, the Task Force recommends the Commission consist of an odd number of members to ensure actions of the Commission are made pursuant to majority decisions of the members.

Because the proposed Commission would be part of the Supreme Court, the Task Force members believe the composition of the new entity should include the Chief Justice of the Supreme Court or the Chief Justice’s designee. With regard to the remaining members of the Commission, the recommendation takes into account the various stakeholders with an interest in the court reporter certification process and ensures the stakeholders’ different perspectives and experiences are represented.

First, the Commission should consist of individuals who are engaged in or involved with the court reporting profession. Specifically, a court-employed stenographic court reporter and freelance court reporter should be included to represent the courts and the private sector. Additionally, since electronic reporters and operators are employed by an increasing number of courts in Ohio, the Task Force members feel it is critical an electronic reporter be included on the Commission. Finally, an officer or past officer of the Ohio Court Reporters Association should be included to bring the requisite expertise in testing procedures, as well as an intimate knowledge of the ethics and demands of court reporting.

Additionally, the Task Force recommends the Commission consist of representatives from the judicial and legal profession. Specifically, given the interaction between court reporters and the court, the Commission should include judges from each level of the judiciary. Furthermore, a prosecuting attorney and public defender with frequent courtroom litigation and appellate practice experience should be included.

Further, in order to ensure the record also is protected to the same standards in pretrial discovery, the Task Force recommends the Commission also consist of a civil litigator who would bring knowledge regarding freelance reporters and depositions, as well as experience with courtroom proceedings.

Finally, the Task Force addressed more administrative matters regarding the Commission, all of which are incorporated into the proposed Rules of Superintendence in Appendix A and are similar to those of the current certification systems operated by the Supreme Court and the court reporter certification systems found in other states. Specifically, the Task Force called for the appointment of a non-clerical Secretary for the Commission and employees to ensure the Commission's responsibilities are carried out in all aspects. Additionally, the Task Force concluded the Commission should submit an annual report to the Supreme Court of its activities, prepare and submit a proposed annual budget to achieve its mandates, and adopt regulations to effectuate the certification process. Lastly, the Task Force addressed more routine matters, such as terms of office for members, meeting requirements, a protocol for the filling of vacancies, the appointment of officers, and the compensation of members.

III. COURT REPORTER CERTIFICATION PREREQUISITES AND EXAMINATIONS / OTHER REQUIREMENTS

Introduction:

Having addressed the class of individuals who should be certified and the creation of a governing body or group, the focus now turns to the specific system for the certification of court reporters in Ohio. As with any certification system, there are different stages or elements to be considered. Specifically, it is necessary to address what, if any, prerequisites with which applicants for certification must comply, such as requisite age and education. Additionally, the fundamental method through which applicants obtain certification, such as testing, must be established.

Recommendation 3:

The Task Force recommends that as a prerequisite to certification by the Supreme Court Commission on Court Reporters, a court reporter satisfy the following requirements:

- **Be eighteen years of age or older,**
- **Possess a high school diploma or a general educational development certificate of high school equivalence,**
- **Be of good moral character,**
- **Submit to a criminal background check,**
- **Comply with any additional requirements adopted by the Supreme Court Commission on Court Reporters.**

Discussion:

After reviewing the certification prerequisites of other states' court reporter certification systems, the Task Force members agreed that any system adopted in Ohio should include certain basic prerequisites. Specifically, although there are various methods of court reporting, the Task Force members feel certain minimum standards must be required of all applicants for certification in order to advance the goal of ensuring accuracy and security of the court record.

The prerequisites listed in this recommendation – minimum age and education, good moral character, and submission to a criminal background check – are consistent with the prerequisites of other states and ensure minimum standards are met. Additionally, aware of the fact that implementation of court reporter certification may reveal other minimum standards to be required of applicants, the Task Force recommends the Supreme Court Commission on Court Reporters be allowed to establish additional prerequisites.

Recommendation 4:

The Task Force recommends that an applicant for certification as a stenographic reporter receive a passing score on an official examination adopted by the Supreme Court Commission on Court Reporters. The Commission may designate the National Court Reporters Association Registered Professional Reporter Examination as the official examination.

Discussion:

With regard to recommendations 4 and 5, the Task Force readily concluded that the method through which most applicants obtain certification as a court reporter in Ohio should include some form of testing. Requiring applicants to pass an official examination ensures the public receives court reporting services only from those individuals who meet a standard level of competence.

Nonetheless, given the differing nature of the various methods of court reporting, the Task Force recognized that the specific examination an applicant should take will differ, depending upon the classification of the applicant (i.e., whether the individual is to be certified as a stenographic reporter, verbatim reporter, etc.). Ultimately, the Task Force concluded the specific details of the examinations should be left to the Supreme Court Commission on Court Reporters.

Because there currently are no state minimum standards of competency required for stenographic court reporters in Ohio, the Task Force recommends the Commission consider using the National Court Reporters Association's Registered Professional Reporter examination, instead of creating a new examination. This examination, which the Association has administered for over 30 years, currently is used in many states for certification of stenographic reporters.

Recommendation 5:

The Task Force recommends an applicant for certification as a verbatim reporter receive a passing score on an official examination adopted by the Supreme Court Commission on Court Reporters. The Commission may designate the National Verbatim Reporters Association's Certified Verbatim Reporter Examination as the official examination.

Discussion:

As with the previous recommendation, the Task Force members feel the specific details of verbatim reporter certification testing are better left to the Supreme Court Commission on Court Reporters. However, as with stenographic court reporters, there currently are no state minimum standards of competency required for voice writer or stenomask court reporters in Ohio. Thus, the Task Force recommends the Commission consider using the National Verbatim Reporters Association's Certified Verbatim Reporter examination, instead of creating a new examination. Similar to the National Court Reporters Association's Registered Professional Reporter examination, many states currently use this examination for certification of voice writers and stenomask court reporters.

Recommendation 6:

The Task Force recommends an applicant for certification as an electronic recorder, electronic operator, or transcriptionist comply with any requirements adopted by the Supreme Court Commission on Court Reporters.

Discussion:

The Task Force is aware that audio and video electronic recording equipment are gaining favor with Ohio courts. Additionally, the Task Force recognizes the distinction between stenographic reporters and verbatim reporters, who actively operate their equipment, and electronic operators and electronic recorders, who start the equipment and watch it to ensure it operates properly. Furthermore, the Task Force recognizes electronic recorders and electronic operators will be trained on the operation of their equipment by the individual courts. As a result, the Task Force does not recommend the testing of electronic recorders and electronic operators. However, given the importance of ensuring the accuracy and security of the record-making process and protecting the public, the Task Force members believe applicants for certification as an electronic reporter or electronic operator should comply with any requirements adopted by the Supreme Court Commission on Court Reporters.

The recommendation concerning transcriptionists is similar. The Task Force notes it is the responsibility of each court in Ohio to ensure the quality of transcriptionists by hiring individuals who can spell, know the rules of grammar, and are acquainted with legal terminology to transcribe court proceedings. Thus, the Task Force does not recommend the testing of transcriptionists. However, given the importance of ensuring the accuracy and security of the record-making process, the Task Force members believe applicants for certification as a transcriptionist should comply with any requirements adopted by the Commission.

The two court reporter members of the Task Force take exception to the majority's viewpoints and recommendation that electronic operators and electronic recorders be exempt from testing. They note that the goal of court reporter certification is to ensure the accuracy and security of the record. Whether the record is in its raw state or is being recorded by a court reporter or by an electronic operator or electronic recorder using a machine, the importance of understanding court procedure and what belongs in the record is the first step in reaching the goal of certification.

The two members also take exception to the majority's recommendation for transcriptionists also to be exempt from testing. Although it is a court's duty to ensure quality when hiring court personnel, they note that many transcriptionists are independent contractors and, therefore, not hired by a court. Additionally, when a transcriptionist is hired, there is no guarantee the individual is knowledgeable of what belongs in the record or that the individual understands the rules and laws of Ohio regarding court transcripts. If this were the case, then there would be no need for the certification of any court reporter (i.e., one would simply assume the court hired knowledgeable employees).

Ultimately, the two members note there is much more to creating and transcribing a verbatim record than just knowing how to operate equipment or being able to do stenotyping, voice recording, or typing. As a result, the two members recommend electronic operators and electronic recorders be tested on their knowledge of court procedures, proper logging of a court proceeding, and the rules and laws pertaining to the functions of the court. Likewise, the two members recommend transcriptionists be tested by the same or similar written knowledge test as given to traditional court reporters and that transcriptionists be required to transcribe 20 pages of dictation from a court proceeding containing the various elements of a transcript used for appeal.

The two members believe statistics will confirm audio and video equipment are not just gaining favor with Ohio courts, but that the courts using such equipment actually outnumber those courts using traditional court reporters. In order to maintain public confidence in the courts, the members feel the state must ensure records made with alternative methods are, in fact, accurate and reliable.

Two of the judicial members of the Task Force also disagree with the majority's recommendation 6, but for reasons opposite of those of the two court reporter members of the Task Force. Specifically, these two judicial members are concerned about the increased costs to courts, due to possible certification requirements for electronic recorders, electronic operators and transcriptionists (i.e., the expenses for initial certification, continuing education, and biennial certification renewal).

Additionally, these two judicial members note that several court employees may serve as electronic recorders, electronic operators, and transcriptionists at various times. In these courts, one individual is not designated as "the" electronic operator, "the" electronic recorder or "the" transcriptionist. Whichever employee is available may assume the responsibility for recording a proceeding. Sometimes, several employees "record" the same proceeding sequentially.

As a result, these two judicial members suggest the following alternative options to the majority's recommendation for all court employees who perform electronic operator, electronic recorder or transcriptionist duties be certified:

- Certification requirements should not apply to electronic recorders, electronic operators, and transcriptionists who are employees of a court. Rather, the judge must determine the qualifications and capabilities of court employees to perform these duties and perfect a proper record,
- One court employee must satisfy certification requirements, who in turn supervises other court employees and is held accountable for the work product of other court employees who are not required to be certified.

IV. RENEWAL OF CERTIFICATION AND CONTINUING EDUCATION REQUIREMENTS

Introduction:

In addition to certification prerequisites and testing, several secondary matters vital to the creation of a comprehensive court reporter certification system should be addressed. First, if court reporters are to be certified, consideration should be given to a certification renewal process (i.e., it must be determined whether renewal should be required and, if so, the method for renewal).

Additionally, because one of the goals behind a certification system is ensuring those certified individuals meet certain standards of competence, continuing education requirements for certified court reporters should be considered.

Recommendation 7:

The Task Force recommends a court reporter’s certification be renewed on a biennial basis. In order to maintain certification, the court reporter should apply to the Supreme Court Commission on Court Reporters in accordance with a standard procedure established by the Commission.

Discussion:

In light of the importance of court reporter certification and in the interest of furthering the goals of certification, the Task Force members believe a court reporter’s certification should be subject to renewal. The Task Force recommends certification be renewed on a biennial basis, which allows court reporters to accrue hours of training and to prepare for any other requirements and is consistent with similar requirements for judges and attorneys in the state. The Supreme Court Commission on Court Reporters should determine whether each court reporter meets the established requirements for that court reporter. Additionally, the Commission should be responsible for receiving all applications, maintaining records, determining the status of those certified, and notifying those who fail to biennially renew their certification.

Recommendation 8:

The Task Force recommends each stenographic reporter and verbatim reporter certified in the state complete and report a minimum number of hours of continuing education, as determined by the Supreme Court Commission on Court Reporters, for each biennial reporting period.

Discussion:

As noted, one of the goals behind the certification of court reporters is to ensure court reporters meet certain standards of competence. In light of the impact changes in law, standards, and technology have upon the profession and the frequency at which changes in those areas occur, the Task Force recommends stenographic reporters and verbatim reporters be required to complete continuing education.

As with certification testing, the Task Force members feel the specifics of the continuing-education requirement are better left to the Supreme Court Commission on Court Reporters and that the Commission be charged with the duty of administering the requirement. However, the Task Force does specifically recommend that court reporters who fail to comply with the continuing education requirements be subject to the suspension of their certification. Additionally, the Task Force believes provision should be made allowing a court reporter who fails to comply with the requirements to cure such noncompliance.

Recommendation 9:

The Task Force recommends that, if required by the Supreme Court Commission on Court Reporters, each electronic recorder, electronic operator, and transcriptionist certified in the state should complete and report a minimum number of hours of continuing education, as determined by the Commission, for each biennial reporting period.

Discussion:

Again, the Task Force notes the importance of continuing education for court reporters. However, as previously discussed, the Task Force members also are aware of the unique nature of electronic operators, electronic recorders, and transcriptionists and the distinctions between these individuals and stenographic reporters and verbatim reporters. As a result, the Task Force recommends the decision as to whether electronic recorders, electronic operators, and transcriptionist should comply with any continuing education requirements be left to the Supreme Court Commission on Court Reporters.

Two of the judicial members of the Task Force disagree with this recommendation. Specifically, they believe a trial court should instruct its employees how to keep and perfect a proper record. Further, they believe a court of appeals should instruct attorneys and trial courts on the requirements of a trial court record if it is not receiving a complete record. As a result, they recommend either court-employed electronic recorders, electronic operators, or transcriptionists be exempt from any continuing education requirements or any associated fees be minimal, or courts in less populated counties be exempt.

V. TEMPORARY CONDITIONAL CERTIFICATION, INACTIVE STATUS, GRANDFATHERING, AND RECIPROCITY

Introduction:

An additional area to be addressed in connection with court reporter certification is the possibility or need of deviating from the standard certification requirement in certain situations. For example, the need for temporary certification of court reporters or the granting of inactive status should be considered. Additionally, because certification requirements impact those court reporters currently practicing in the state, some form of temporary grandfathering of those court reporters should be addressed. And finally, because we live in a mobile society and court reporters in surrounding states have and will continue to be involved in judicial proceedings in Ohio, reciprocity should be considered.

Recommendation 10:

The Task Force recommends the Supreme Court allow court reporters to apply to the Supreme Court Commission on Court Reporters for temporary conditional certification without fulfilling the applicable examination requirements. The Commission should grant temporary conditional certification only under limited circumstances and pursuant to standards as determined by the Commission.

Discussion:

The Task Force understands the certification requirement is a substantial change from past practice. In order to make a smooth transition into the era of certification and accommodate unique circumstances in which the “regular certification” of a court reporter is unnecessary, the Task Force recommends the Supreme Court allow temporary conditional certification. However, recognizing the purpose behind certification, the Task Force believes temporary certification should be granted only under limited circumstances and pursuant to standards as determined by the Supreme Court Commission on Court Reporters.

Recommendation 11:

The Task Force recommends the Supreme Court Commission on Court Reporters allow certified court reporters to be placed on inactive status in accordance with a standard application procedure established by the Commission.

Discussion:

The Task Force notes that, due to the nature of court reporting, from time to time certified court reporters may take leaves of absence from their profession. During this time, the Supreme Court Commission on Court Reporters should grant inactive status for good cause, upon request of the court reporter. Otherwise, those reporters would be required to maintain the same requirements of court reporters on active status. Those who are placed on inactive status should be required to meet the certification requirements to return to active status and gain reinstatement by the Commission.

Recommendation 12:

The Task Force recommends a court reporter who has served in that capacity in the state for at least two consecutive years before the adoption of court reporter certification should have two years from the effective date of the certification requirements to obtain certification.

Discussion:

The Task Force notes numerous court reporters have worked within Ohio for many years and that certification creates a new requirement with which these individuals have not had to comply in the past. As with the previous recommendation, in order to make a smooth transition into the era of certification, the Task Force recommends that individuals who have served as court reporters be given time to prepare for certification.

Recommendation 13:

The Task Force recommends the Supreme Court allow a court reporter who has previously received certification from another state to apply to the Supreme Court Commission on Court Reporters for certification without fulfilling the applicable examination requirements. The Commission should certify the court reporter if the state from which the reporter seeks admission has a certification requirement substantially comparable to the certification requirement of this state.

Discussion:

The Task Force recognizes geographical boundaries are often crossed with pending legal matters. This is especially true in Ohio given it borders five other states. Additionally, the Task Force members believe qualified court reporters from other states should be allowed to work in the state. Therefore, the Task Force recommends reciprocity be granted to an out-of-state court reporter if there is adequate assurance the court reporter has met certification requirements comparable to those of Ohio.

VI. CODE OF ETHICS AND PROFESSIONALISM

Introduction:

A resulting benefit of establishing court reporter certification is communicating to Ohio citizens the fact court reporters are impartial and fair and abstain from conflicts of interest. A means of achieving this to consider as part of the overall certification system is the inclusion of provisions governing the actions and behavior of court reporters. Specifically, a code of ethics and professionalism should be addressed.

Recommendation 14:

The Task Force recommends the Supreme Court Commission on Court Reporters adopt a Code of Ethics and Professionalism governing certified court reporters.

Discussion:

The Task Force recognizes court reporters are an integral part of the justice system and the integrity of the system is essential. Judges and lawyers are governed by Rules of Professional Conduct and are required to meet high standards of professionalism. Similarly, the conduct of court reporters should be governed by rules concerning conduct and professionalism in order to protect the confidentiality and security of the parties, and the integrity of the judicial system. Therefore, the Task Force recommends court reporters be governed by a Code of Ethics and Professionalism to be adopted by the Supreme Court Commission on Court Reporters.

VII. PRO BONO SERVICE

Introduction:

Although not a required element of a certification system, one area for consideration is goals to which certified individuals should aspire. In light of court reporting's impact upon and importance to society, one potential ambition to be considered is the performance of pro bono service.

Recommendation 15:

The Task Force recommends the Supreme Court encourage certified court reporters to provide pro bono services when requested through qualified legal assistance organizations providing free legal services to the indigent.

Discussion:

The Task Force notes pro bono service to the needy always has been a core value of the legal profession, as can be seen in the Supreme Court Task Force on Pro Se and Indigent Representation and the 2006 recommendations from the Ohio Legal Assistance Foundation. The Task Force members believe this core value also should be recognized by professional court reporters, especially given the fact that court reporters are logically seen as an extension of the court. Without the services of professional court reporters, the value of pro bono legal service is greatly diminished. Furthermore, as previously noted, the fundamental fairness of the legal system depends on an accurate and available record of certain proceedings. In those instances when the litigant or party is financially unable to pay for the transcript, pro bono service should be available. Thus, the Task Force included a provision encouraging such service in the proposed Code of Ethics and Professionalism in Appendix B.

VIII. CERTIFICATION SUSPENSION AND REVOCATION

Introduction:

One of the last matters to be addressed in creating a complete certification system is the formation of some manner of policing mechanism (i.e., whether it should include some procedure or system through which certification can be suspended or revoked). Thus, the last step in establishing court reporter certification in Ohio is to address certification suspension and revocation.

Recommendation 16:

The Task Force recommends the Supreme Court Commission on Court Reporters adopt regulations establishing a complaint system through which alleged violations of the various court reporter-related requirements may be investigated, prosecuted, and adjudicated.

Discussion:

The Task Force notes participants in a judicial hearing or proceeding come to the courtroom with the perception and expectation the court will try their case in a neutral arena and that an impartial fact-finder will faithfully exercise its duty to come to a resolution grounded in truth and justice. Because the court reporter is logically seen as an extension of the court's neutrality, the Task Force recommends the Commission on Court Reporters adopt regulations establishing a mechanism to address alleged court reporter misconduct, so as to maintain public confidence in judicial outcomes.

The complaint and discipline process incorporated into the proposed regulations in Appendix C sets forth the Task Force's envisioned mechanism for addressing court reporter misconduct. As can be seen in the proposed language of the regulations, the Task Force members believe the complaint reporting mechanism must include a procedure to hear complaints regarding alleged incidents of fraud and dishonesty, questioned neutrality, gross negligence, and incompetent performance. Additionally, the procedure must allow for due process to be considered, so a complaint or investigation is fairly and justly heard and the appropriate resolution is reached.

Recommendation 17:

The Task Force recommends the Supreme Court require the immediate notification of relevant groups of any disciplinary action taken against a certified court reporter when the action results in the court reporter's loss of certification.

Discussion:

Should disciplinary action be taken against a court reporter, the Task Force notes, then notification of the public and the legal community should be required. Publication in the Ohio State Bar Association Report, as well as in local legal publications, would be appropriate. The Task Force members believe those using the services of a court reporter should have access to any disciplinary action taken against a certified court reporter.

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APPENDIX A

The following proposed Rules of Superintendence, prepared by the Task Force on the Certification of Court Reporters, implement those recommendations presented in the Task Force's Report and Recommendations.

SECTION 1. DEFINITIONS

Sup. R. 80. Definitions

As used in Sup. R. 80 to 88:

(A) “Court reporter” includes an electronic operator, electronic recorder, stenographic reporter, transcriptionist, and verbatim reporter.

(B) “Electronic operator” means an individual who operates the electronic recording equipment used to record proceedings for a court of the state and prepares logs of those proceedings.

(C) “Electronic recorder” means an individual who operates the electronic recording equipment used to record proceedings for a court of the state and prepares logs and transcripts of those proceedings.

(D) “Stenographic reporter” means an individual who uses a stenographic machine or shorthand to record proceedings for a court of the state and prepares logs and transcripts of those proceedings.

(E) “Transcriptionist” means an individual who prepares a printed transcript to be filed with a court of the state.

(F) “Verbatim reporter” means an individual who uses a mask or voice writing system to record proceedings for a court of the state and prepares logs and transcripts of those proceedings.

**SECTION 2. THE SUPREME COURT COMMISSION
ON COURT REPORTERS**

Sup. R. 81. The Supreme Court Commission on Court Reporters

(A) Creation and membership

There is hereby created the Supreme Court Commission on Court Reporters, consisting of the Chief Justice of the Supreme Court or a designee authorized by the Chief Justice and the following ten members to be appointed by the Supreme Court:

- (1) One judge of a court of appeals;
- (2) One judge of the general division of a court of common pleas;
- (3) One judge of a municipal court;
- (4) One court reporter who is a resident of the state and has been an official stenographic reporter employed by a court of the state for at least five years;
- (5) One court reporter who is a resident of the state and has been a freelance court reporter for at least five years;
- (6) One electronic recorder who is a resident of the state and has been employed by a court of the state for at least five years;
- (7) One prosecuting attorney who is a resident of the state and has been licensed to practice law in the state for at least five years;
- (8) One public defender who is a resident of the state and has been licensed to practice law in the state for at least five years;
- (9) One attorney practicing in civil litigation who is a resident of the state and has been licensed to practice law in the state for at least five years;
- (10) One officer or past officer of the Ohio Court Reporters Association.

(B) Terms of office

(1) Initial appointments to the Commission shall be as follows:

- (a) Four members shall be appointed for terms ending December 31st of the first year after the effective date of Sup. R. 80 to 88;
- (b) Three members shall be appointed for terms ending December 31st of the second year after the effective date of Sup. R. 80 to 88;
- (c) Three members shall be appointed for terms ending December 31st of the third year after the effective date of Sup. R. 80 to 88.

(2) Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member is appointed. Members shall be eligible for reappointment, but shall not serve more than two consecutive full three-year terms. Initial appointments and appointments to fill a vacancy shall not constitute a full term.

(C) Vacancies

Vacancies on the Commission shall be filled in the same manner as original appointments. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the appointee's predecessor was serving shall serve for only the remainder of that term, but is eligible for appointment to a subsequent full three-year term.

(D) Officers

The judge of a court of appeals shall serve as chair of the Commission. Each year the Commission shall elect a vice-chair and other officers as are necessary.

(E) Secretary of the Commission and employees

The Supreme Court shall appoint and fix the compensation of the Secretary of the Commission, in consultation with the Commission. The Secretary may appoint other employees necessary to carry out the duties of the Commission.

(F) Meetings

The Commission shall meet at least once each calendar year and at other times as needed upon the call of the chair or a majority of the members. A majority of the members constitutes a quorum. No action shall be taken by the Commission without the concurrence of a majority of the members constituting a quorum at that meeting. The Commission shall maintain records of its meetings and any vote or other action taken at a meeting.

(G) Compensation

Members of the Commission shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their official duties.

(H) General duties and powers

The Commission shall do each of the following:

- (1) By the first day of January of each year, submit a report to the Supreme Court concerning the activities of the Commission and the status of court reporters certified in the state;
- (2) At the request of the Administrative Director of the Supreme Court, prepare and submit a proposed annual budget for approval by the Supreme Court;
- (3) Subject to the approval of the Supreme Court, adopt regulations as needed to implement Sup. R. 80 to 88 that are consistent with those rules.

SECTION 3. CERTIFICATION OF COURT REPORTERS

Sup. R. 82. Certification

(A) Requirement

A court reporter shall be certified by the Supreme Court Commission on Court Reporters pursuant to the requirements of this rule.

(B) Prerequisites for certification

To be certified as a court reporter, an applicant shall satisfy the following prerequisites:

- (1) Be eighteen years of age or older;
- (2) Be of good moral character;
- (3) Possess a high school diploma or a general educational development certificate of high school equivalence;
- (4) Except as provided in divisions (D) and (E) of this rule, fulfill all applicable requirements of Sup. R. 83;
- (5) Submit to a criminal background check;
- (6) Comply with any additional requirements imposed by regulations adopted by the Commission.

(C) Application for certification

An applicant for certification under this rule shall file an application with the Commission. The application shall be in a form provided by the Commission and shall include each of the following:

- (1) A copy of the applicant's high school diploma or general educational development certificate of high school equivalence;
- (2) Except as provided in divisions (D) and (E) of this rule, proof the applicant has fulfilled all applicable requirements of Sup. R. 83;

(3) An affidavit the applicant has read, is familiar with, and agrees to comply with all applicable rules adopted by the Supreme Court and regulations adopted by the Commission governing court reporters;

(4) For purposes of conducting the required criminal background check, fingerprint identification taken by a sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, or state highway patrol officer;

(5) A nonrefundable initial application fee in an amount as determined by the Commission;

(6) Any additional information or documentation the Commission considers necessary as required in regulations adopted by the Commission.

(D) Temporary conditional certification without examination

A court reporter may apply to the Commission for temporary conditional certification without fulfilling the applicable requirements of Sup. R. 83. The court reporter shall apply for temporary conditional certification on a form provided by the Commission. The Commission shall grant temporary conditional certification only under limited circumstances and pursuant to standards as determined by the Commission.

(E) Reciprocity

A court reporter who has previously received certification from another state may apply to the Commission for certification without fulfilling the applicable requirements of Sup. R. 83. The court reporter shall apply for certification on a form provided by the Commission. The Commission shall certify the applicant if the state from which the applicant seeks admission has certification requirements for electronic operators, electronic recorders, stenographic reporters, transcriptionists, or verbatim reporters, as applicable, that are substantially comparable to the certification requirements of the state.

(F) Prior service as court reporter

A court reporter who has been serving in that capacity in the state for at least two consecutive years before the effective date of Sup. R. 80 to 88 shall have two years from the effective date of the rules to obtain certification. If the court reporter does not obtain certification within the two-year period, the court reporter shall cease practice in the state in all areas in which certification is required.

(G) Certification records

The Commission shall maintain in a designated location available to the public a registry of all applicants for certification as a court reporter in the state and a roster of all court reporters so certified.

SECTION 3. CERTIFICATION OF COURT REPORTERS

Sup. R. 83. Certification Examination or other Requirement

(A) Stenographic reporters

Except as provided in divisions (D) and (E) of Sup. R. 82, an applicant for certification as a stenographic reporter shall receive a passing score on an official examination adopted by the Supreme Court Commission on Court Reporters. The Commission may designate the National Court Reporters Association's Registered Professional Reporter examination as the official examination.

(B) Verbatim reporters

Except as provided in divisions (D) and (E) of Sup. R. 82, an applicant for certification as a verbatim reporter shall receive a passing score on an official examination adopted by the Commission. The Commission may designate the National Verbatim Reporters Association's Certified Verbatim Reporter examination as the official examination.

(C) Electronic recorders, electronic operators, and transcriptionists

Except as provided in divisions (D) and (E) of Sup. R. 82, an applicant for certification as an electronic recorder, electronic operator, or transcriptionist shall fulfill any requirements adopted by the Commission.

SECTION 3. CERTIFICATION OF COURT REPORTERS

Sup. R. 84. Biennial Certification Renewal and Inactive Status

(A) Biennial certification renewal

A court reporter certified in the state shall renew the court reporter's certification on the thirtieth day of September of each biennium. To maintain certification, a court reporter shall apply to the Supreme Court Commission on Court Reporters in accordance with a standard procedure established by the Commission. The application shall include a certification renewal fee in an amount as determined by the Commission.

(B) Inactive status

A court reporter certified in the state may be granted inactive status by applying to the Commission in accordance with a standard procedure established by the Commission. Until an inactive court reporter requests and is granted reinstatement to active status, the court reporter shall cease practice in the state in all areas in which certification is required.

SECTION 4. CONTINUING EDUCATION

Sup. R. 85. Continuing Education

(A) Requirements

(1) Each stenographic reporter and verbatim reporter certified in the state shall complete and report on a form provided by the Supreme Court Commission on Court Reporters a minimum number of hours of continuing education units, as determined by the Commission, for each biennial reporting period.

(2) If required by the Commission, each electronic recorder, electronic operator, and transcriptionist certified in the state shall complete and report on a form provided by the Commission a minimum number of hours of continuing education units, as determined by the Commission, for each biennial reporting period.

(B) Noncompliance

A court reporter who fails to comply with any continuing education requirements of this rule shall be subject to suspension pursuant to a procedure established by the Commission. Prior to initiation of a suspension procedure, the Commission shall provide notice to the court reporter and allow the court reporter to achieve compliance with the requirements. The Commission shall accept continuing education units obtained by the court reporter subsequent to the relevant two-year reporting period, but prior to implementation of the court reporter's suspension in order to cure noncompliance, provided the court reporter shall be subject to a late filing fee for the continuing education units in an amount as determined by the Commission, but not to exceed \$100.00.

(C) Duties of the Commission

In administering the continuing education requirements of this rule, the Commission shall do both of the following:

(1) Keep a record of the continuing education units of each court reporter, provided that it shall be the responsibility of the court reporter to inform the Commission of meeting the continuing education requirements;

(2) Accredit continuing education programs, activities, and sponsors and establish procedures for accreditation. The Commission may assess reasonable application fees for accreditation and sponsors that submit a program or activity for accreditation.

SECTION 5. CODE OF ETHICS AND PROFESSIONALISM

Sup. R. 87. Code of Ethics and Professionalism

The Supreme Court Commission on Court Reporters shall adopt regulations establishing a code of ethics and professionalism to govern all court reporters certified in the state and the practice of court reporting in the state.

SECTION 6. COMPLAINT AND DISCIPLINE

Sup. R. 88. Complaint and Discipline

The Supreme Court Commission on Court Reporters shall be responsible for the discipline of court reporters certified in the state and shall adopt regulations establishing a complaint and disciplinary process through which an allegation of any of the following may be brought, investigated, and disposed:

(A) That a court reporter has violated or has not complied with a court order, an order of the Commission, a requirement of Sup. R. 80 to 88, a regulation adopted by the Commission, or any other applicable law or rule;

(B) That a court reporter has engaged in unprofessional conduct, fraud, dishonesty, or corruption;

(C) That a court reporter has performed the court reporter's duties with gross negligence or incompetence;

(D) That a court reporter is unable to perform the court reporter's duties at the level of skill required by the Commission;

(E) That a court reporter has aided or assisted an individual who is not certified as a court reporter in the state to engage in actions which require such certification;¹

(F) That a court reporter has been convicted of a felony offense or any other offense involving moral turpitude;

(G) That a court has ordered treatment for a court reporter or has found a court reporter to be incapacitated or incompetent.

¹ See the dissenting viewpoint of two of the judicial members of the Task Force on page 11.

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APPENDIX B

Recommendation 14 of the Task Force’s Report and Recommendations proposes the Supreme Court Commission on Court Reporters adopt regulations establishing a Code of Ethics and Professionalism governing certified court reporters. Having examined and addressed this matter during its deliberations, the Task Force recommends the Commission consider adopting a code similar to the Task Force’s following proposal.

CODE OF ETHICS AND PROFESSIONALISM FOR COURT REPORTERS

Preface

This Code, consisting of statements of norms denominated canons, states the ethical and professional standards of conduct that court reporters certified in the state pursuant to Sup. R. 80 to 88 should observe. The canons and text establish mandatory standards unless otherwise indicated.

Canon 1

High Standard of Conduct

A court reporter shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with all applicable laws and rules, and shall act at all times in a manner that promotes public confidence in the integrity of the judicial system.

Canon 2

Fairness and Impartiality

A court reporter shall exercise fairness and impartiality toward all parties in a proceeding and shall always offer to provide comparable services to all parties in a proceeding.

Canon 3

Impartiality and Avoidance of Conflicts of Interest

(A) Prohibition against personal or financial self-interest

A court reporter shall have no personal or financial self-interest in the reporting of a proceeding and shall exercise caution to avoid any appearance of self-interest.

(B) Awareness of conflicts of interest

A court reporter shall be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest or create an appearance of partiality.

(C) Full disclosure of conflicts of interest

A court reporter shall promptly make full disclosure to all parties or their representatives of any relationships, including contracts for court reporting services, which may give the appearance of a conflict of interest or partiality.

Canon 4
Avoidance of Unethical and Unprofessional Conduct

A court reporter shall refrain from knowingly making misleading, deceptive, untrue, or fraudulent representations while in the practice of court reporting. A court reporter shall not engage in unethical or unprofessional conduct in the practice of court reporting that is harmful or detrimental to the public. Proof of actual injury is not required.

Canon 5
Confidentiality and Security of Exhibits and Information

A court reporter shall preserve the confidentiality and ensure the security of exhibits and information, both verbal and written, to which public access is restricted or limited and that has been entrusted to the court reporter by the court or any party in a proceeding.

Canon 6
Truthfulness and Accuracy

(A) Advertising

A court reporter shall be truthful and accurate when advertising or representing the court reporter's qualifications, skills, abilities, or services provided.

(B) Maintaining and observing high standards

A court reporter shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.

Canon 7
Continuing Education

A court reporter shall keep abreast of current literature and technological advances and developments and shall fulfill ongoing training requirements to maintain professionalism.

Canon 8
Pro Bono Services

As part of the commitment to the principle of access to justice for all and the integral role of court reporters, court reporters are encouraged to provide pro bono services when requested through qualified legal assistance organizations providing free legal services to the indigent. Court reporters providing pro bono services pursuant to this canon shall disclose the pro bono service to all parties in the case.

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APPENDIX C

Recommendation 16 of the Task Force's Report and Recommendations proposes the Supreme Court Commission on Court Reporters adopt regulations establishing a complaint system through which alleged violations of the various court reporter-related requirements may be investigated, prosecuted, and adjudicated. Having examined and addressed this matter during its deliberations, the Task Force recommends the Commission consider adopting a complaint and discipline process similar to the Task Force's following proposal.

COMPLAINT AND DISCIPLINARY PROCESS

CCR Reg. 1. Filing of Complaint and Investigation

(A) Filing of complaint

(1) All judicial officers or their designees shall, and any other individual may, file a complaint with the Supreme Court Commission on Court Reporters against a court reporter, or the Commission may initiate a complaint on its own motion, if it appears any of the following apply to the court reporter:

- (a) The court reporter is in violation of or noncompliance with a court order, an order of the Commission, a requirement of Sup. R. 80 to 88, including but not limited to certification, a regulation adopted by the Commission, or any other applicable law or rule;
- (b) The court reporter has engaged in unprofessional conduct, fraud, dishonesty, or corruption;
- (c) The court reporter has performed the court reporter's duties with gross negligence or incompetence;
- (d) The court reporter is unable to perform the court reporter's duties at the level of skill required by the Commission;
- (e) The court reporter has aided or assisted an individual who is not certified as a court reporter in the state to engage in actions which require such certification;

- (f) The court reporter has been convicted of a felony offense or any other offense involving moral turpitude;
 - (g) A court has ordered treatment for the court reporter or has found the court reporter to be incapacitated or incompetent.
- (2) A complaint shall meet each of the following requirements:
- (a) If filed by a complainant, it shall be written, provided that the Commission may accept a verbal complaint if the complainant is unable or unwilling to provide the complaint in writing;
 - (b) If filed by a complainant, it shall include the complainant's name and telephone number;
 - (c) It shall include sufficient specificity to warrant investigation and evaluation.

(B) Initial screening and investigation

Upon receipt of a complaint by a complainant or initiation by the Commission, the secretary of the Commission shall conduct an initial screening to determine if the complaint warrants further investigation and evaluation. If the complaint warrants such, the secretary shall designate one or more qualified individuals to conduct a prompt and confidential investigation and timely report written findings and a recommendation to the secretary. However, an investigation need not be conducted if, upon the initial screening, the secretary finds probable cause exists to warrant the Commission's immediate review of the complaint pursuant to division (D) of this regulation.

(C) Probable cause review

Upon completion of the investigation and evaluation of a complaint, the secretary shall review the investigator's written findings and recommendation. Following the review, the secretary may agree or disagree with the recommendations and do any of the following:

- (1) Order further investigation;
- (2) Recommend the Commission refer the complaint to another entity with jurisdiction;
- (3) Determine there is no probable cause that a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and recommend that the Commission dismiss the complaint;

(4) Determine there is probable cause that a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and make a written recommendation to the Commission.

(D) Commission review

Upon the secretary's determination there is probable cause that a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter, the Commission shall review the complaint, the written findings and recommendation of the investigator, and the written recommendation of the secretary. Following the review, the Commission may do any of the following:

(1) Order further investigation;

(2) Determine no provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and dismiss the complaint;

(3) Determine a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and direct the secretary to draft an advisory letter to be reviewed and approved by the Commission and sent to the court reporter;

(4) Determine a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter, but the complaint is appropriate for resolution without proceeding to formal charges;

(5) Determine a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and direct the staff of the Commission to serve upon the court reporter a formal statement of charges. The statement shall include a concise statement of the allegations, the factual basis supporting the relief requested, and a notice of the court reporter's rights pursuant to CCR Reg. 2.

CCR Reg. 2. Complaint Hearing

(A) Request for hearing and appointment of hearing officer

A court reporter served with a formal statement of charges pursuant to division (D)(5) of CCR Reg. 1 by the Supreme Court Commission on Court Reporters may file a written request for a hearing regarding the complaint within 30 days of receipt of the statement. If the court reporter fails to request a hearing within that time, the court reporter shall be in default and the Commission may proceed with disciplinary proceedings as provided in CCR Reg. 3.

(B) Duties and authority of hearing officer

(1) At the direction of the Commission or upon written demand of the court reporter, the chair or secretary of the Commission shall select from a list provided by the Commission a hearing officer to hold the hearing. A court reporter shall have no right for the hearing to be heard by a jury.

(2) The hearing officer shall preside over the hearing and have authority to do each of the following:

- (a) Decide all motions;
- (b) Conduct pre-hearing conferences;
- (c) Determine the order of proof and manner of presentation of evidence;
- (d) Issue subpoenas;
- (e) Administer oaths and affirmations;
- (f) Question witnesses;
- (g) Recess or adjourn the hearing;
- (h) Prescribe and enforce general rules of conduct and decorum.

(3) Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.

(C) Rights of parties at a hearing

(1) A party shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in a hearing.

(2) A court reporter may represent him or herself or appear through counsel at a hearing. An attorney who intends to appear on behalf of a court reporter shall promptly notify the hearing officer and the Commission and provide the name, address, and telephone number of the attorney and the court reporter. A corporate officer may represent a business entity.

(D) Conduct of hearing

(1) Except as provided in this division and divisions (E) to (G) of this regulation, the hearing officer may conduct the hearing in an informal manner and without adherence to rules of pleading or evidence.

(2) The hearing officer shall require evidence supporting a decision that is substantial, reliable, and probative and shall exclude irrelevant, immaterial, or unduly repetitious evidence.

(3) The hearing officer shall require testimony considered be under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation.

(4) All hearings shall be open to the public, provided that if the hearing implicates an underlying judicial proceeding, the hearing officer and parties shall comply with any confidentiality order issued by the court in that proceeding.

(E) Filing of answers, motions, and responses

(1) Within thirty days of receipt of a formal statement of charges, unless otherwise ordered by the hearing officer, the court reporter shall give an answer to the statement that complies with the Rules of Civil Procedure. If the court reporter fails to file an answer within that time, the court reporter shall be in default and the hearing officer may determine the proceeding against the court reporter, admit any of the assertions contained in the statement, and determine if any defenses are waived.

(2) Except as otherwise provided in this regulation or otherwise ordered by the hearing officer, the parties shall file all motions at least five days prior to the scheduled hearing date.

(3) The parties shall file responses to motions within five days of the filing of the motion.

(4) Copies of all filings shall be delivered to the hearing officer and the parties.

(F) Discovery

(1) Discovery shall not be permitted except as provided in this division, unless mutually agreed to by the parties or permitted by the hearing officer.

(2) Upon the written request of a party, the hearing officer shall order a party to allow the requesting party to have reasonable opportunity prior to the hearing to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonable calculated to lead to admissible evidence, provided the evidence or document is not privileged.

(3) Upon written request of a party or the hearing officer's own motion, the hearing officer may require a party to disclose prior to the hearing documentary evidence intended for use at the hearing, provided the evidence is not privileged.

(4) Parties may take depositions of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing for use as evidence. To take a deposition, a party shall file with the hearing officer and provide to all parties a copy of a written motion setting forth each of the following:

- (a) The name and address of the witness to be deposed;
- (b) The subject matter of the deposition and documents, if any, the party is seeking for production;
- (c) The time and place proposed for the deposition;
- (d) The justification for the deposition.

(5) A party shall file a response to a request for a deposition, including any motion to quash, within five days after the filing of the request for deposition.

(G) Record of Hearing

Upon written request of a party within five days prior to the hearing, the hearing officer shall require the hearing to be electronically recorded and transcribed. Additionally, upon written request of a party within five days prior to a hearing, the hearing officer shall require a full stenographic record of the hearing to be prepared by a court reporter certified in the state. The requesting party shall pay the cost of the transcript. The hearing officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the transcript is a part of the record of the hearing and any other party with a direct interest shall receive a copy of the record.

(H) Confidentiality

Except as mandated by law or rules or regulations adopted by the Supreme Court, information and documents obtained or generated by the Commission, the secretary, investigators, or Commission staff in the course of an investigation or received in a complaint are confidential.

CCR Reg. 3. **Resolution of Complaint**

(A) Decision on the complaint

Upon completion of an investigation and any hearing of a complaint against a court reporter certified in the state, the Supreme Court Commission on Court Reporters shall do one or more of the following:

(1) Order further investigation;

(2) Determine that no provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and dismiss the complaint;

(3) Refer the complaint to another entity with jurisdiction;

(4) If the Commission determines no provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter, but believes further instances or continuation of the behavior in question by the court reporter may result in future disciplinary action, direct the secretary of the Commission to issue an advisory letter to the court reporter. The advisory letter shall remind the court reporter of the obligations of certification in the state or give instructions designed to assist the court reporter in improving or modifying behaviors or procedures.

(5) Determine a provision listed in division (A)(1) of CCR Reg. 1 exists or applies to the court reporter and do any of the following:

(a) Issue a letter of concern to the court reporter;

(b) Censure the court reporter;

(c) Resolve the complaint with a consent order or other negotiated settlement between the parties;

(d) Place restrictions on the court reporter with specified conditions;

(e) Place the court reporter on probation for a specified period of time;

(f) Mandate additional training for the court reporter;

(g) Issue a cease and desist order to the court reporter;

(h) Suspend the court reporter's certification;

- (i) Revoke the court reporter's certification;
- (j) Assess costs related to the investigation or hearing;
- (k) Impose fines.

(B) Decisions and Orders

The Commission's final decision shall be in writing and include findings of fact and conclusions of law, separately stated. The Commission shall make findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed. The Commission shall notify the court reporter by mail of any decision or order.

(C) Judicial Review

Decisions of the Commission on a complaint are final. Parties may take an appeal from the decision to the Court of Common Pleas of Franklin County.

(D) Notification

The Commission immediately shall notify relevant groups of any disciplinary action taken under this rule against a court reporter if the action results in the court reporter's loss of certification. The Commission shall maintain in a designated location available to the public information concerning that disciplinary action.

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