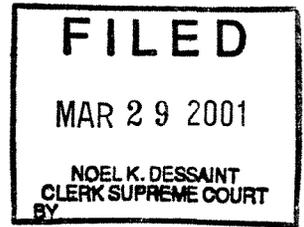


IN THE SUPREME COURT OF THE STATE OF ARIZONA



In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 7-207:) No. 2001- 38 _____
COURT REPORTER TEMPORARY) (Replacing Administrative
CERTIFICATION) Order No. 99-72)
_____)

The above captioned provision having come before the Arizona Judicial Council on March 15, 2001 and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution and Arizona Revised Statutes § 32-4005(A),

IT IS ORDERED that the above captioned provision, including the Code of Conduct, Certification Fee Schedule and Arizona Transcript Format Guidelines in the appendices, as attached hereto, is adopted as a section of the Arizona Code of Judicial Administration, replacing Administrative Order No. 99-72, Adoption of Rules for Court Reporter Temporary Certification Program.

IT IS FURTHER ORDERED that the above captioned provision is effective on April 2, 2001.

Dated this 29th day of March, 2001.



THOMAS A. ZLAKET
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-207: Court Reporter Temporary Certification

A. Definitions.

“Board” means the same as provided by A.R.S. § 32-4002(1), that is: “Board” means the board of certified court reporters.”

“Certify” means the same as provided by A.R.S. § 32-4002(4), that is: “Certify” means board authorization to engage in activities regulated by the board.”

“Certified court reporter” means the same as provided by A.R.S. § 32-4002(3), that is: “Certified court reporter” means a person who is certified by the board and who records and transcribes a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand or machine writing.”

“Chapter” means Title 32, Chapter 40, Board of Certified Court Reporters, Arizona Revised Statutes.

“Code section” means the referenced provision of the Arizona Code of Judicial Administration.

“Days” means the same as provided by Arizona Rules of Civil Procedure, that is: the computation of days is as follows: if “. . . less than 11 days, intermediate Saturdays, Sundays and legal holidays will not be included in the computation . . .” and if “. . . 11 days or more, intermediate Saturdays, Sundays and legal holidays will be included in the computation.”

“Director” means the director of the administrative office of the courts, Arizona Supreme Court, or the director’s designee.

“Program coordinator” means the staff appointed by the administrative director to administer the program.

“Report” means the same as provided by A.R.S. § 32-4002(5), that is: “Report” means to stenographically record and transcribe sworn proceedings.”

“Rules of court” means the Arizona Rules of Court.

“Section” means the referenced provisions of the Arizona Revised Statutes.

“Supreme Court” means the Arizona Supreme Court.

B. Applicability. This code section applies to the temporary certification of court reporters pursuant to Arizona Revised Statutes, Title 32, Chapter 40 and Arizona Laws 2000, Ch. 41, § 13, addresses all components of the certification process including application, fees, criteria for approval or denial of certification, resolution of complaints concerning certified court reporters and the discipline and administrative hearing process. A.R.S. § 32-4001 provides: “This chapter does not apply to persons, entities or courts that use nonstenographic means of recording. This chapter does not limit the

contempt powers of the court or the authority of the court to discipline court employees.” Reference Code Section 7-206: Court Reporter Standard Certification for provisions regarding standard certification of court reporters.

C. Purpose. A.R.S. § 32-4003(A) provides: “Beginning July 1, 2000, a person shall not engage in the stenographic reporting of proceedings in any court in this state and shall not take stenographic depositions in this state for use in any court in this state unless the person is certified pursuant to this chapter.” A.R.S. § 32-4003(D) provides: “Beginning July 1, 2000, it is unlawful for any person who is not certified pursuant to this chapter to represent oneself as a certified court reporter.” All persons must hold a valid certificate and comply with the requirements of this code section for eligibility to stenographically record and transcribe a verbatim record in any sworn proceeding in this state for use in any court in this state. The reporter’s transcript is an important document before, during and after a trial. The paper transcript and its electronic version are used for trial preparation, briefs, impeachment purposes and appellate review. Property, freedom and life all can depend on a clear and accurate record. Court reporting is integrally related to the prompt, effective and impartial operation of the judicial system.

D. Administration.

1. A.R.S. § 32-4005(A) provides:

“The supreme court shall:

1. Administer the court reporter certification program.
2. Adopt rules.
3. Establish and collect fees, costs and fines that are necessary for the implementation and enforcement of the program.”

2. A.R.S. § 32-4008 provides: “The supreme court shall set and collect the following fees to carry out this chapter:

1. Examination fees.
2. Certificate application fees.
3. Certificate renewal fees.
4. Temporary certificate application fees.
5. Temporary certificate renewal fees.
6. Any other fees that are necessary and appropriate to carry out this chapter.”

3. A.R.S. § 32-4007(A) and (C) establishes the Court Reporters Fund and specifies “. . . The supreme court will administer the fund . . .” and “. . . The supreme court may receive and expend monies from the fund . . .” The administrative director has the authority to approve or disapprove matters of administration of the Court Reporter Certification Program that involve the expenditure of program funds.
4. The administrative director shall designate a program coordinator. The program coordinator shall administer the Court Reporter Certification Program, provide updates to the board, make recommendations regarding matters pertaining to certification, complaints and investigations, and all other matters relevant to certified court reporters.
5. A.R.S. § 32-4004 establishes the board and authorizes the chief justice to appoint members for specified terms.
 - a. A.R.S. § 32-4005(B) provides:
 - B. The board shall:
 1. Make recommendations to the supreme court regarding rules, policies and procedures, to implement and enforce this chapter, including the following:
 - (a) Applicant testing.
 - (b) Fees.
 - (c) A code of conduct.
 - (d) Continuing education.
 - (e) Any other matter pertaining to certified court reporters
 - . . . 3. Issue certificates to qualified applicants.
 4. Investigate and take disciplinary action pursuant to section 32-4006.
 5. Require each applicant to submit a full set of fingerprints to the supreme court for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.
 - b. A.R.S. § 32-4004(E) provides: “The board shall assure that a record of its meetings and all official actions, a register of all applicants for certification and a roster of all certified court reporters is maintained. The board shall designate the location where it maintains the register and roster.”

E. Initial Certification.

1. Qualifications for Application.
 - a. Arizona Laws, 2000, Ch. 41, § 13 provides:

- C. A person may apply for a temporary certificate if the person meets all of the following:
1. Is at least eighteen years of age.
 2. Is a citizen or legal resident of the United States.
 3. Possesses either:
 - (a) A high school diploma.
 - (b) A general equivalency diploma or a similar document or certificate.
 4. Has one of the following:
 - (a) One year of experience in making verbatim reports of proceedings.
 - (b) Obtained a verified statement of the satisfactory completion of a prescribed course of study from a court reporting school that evidences the equivalent proficiency and the ability to make a verbatim record.
 - (c) Demonstrated proficiency, as specified by rules adopted by the supreme court and as verified by a statement of satisfactory completion demonstrating the court reporter's ability.
 - (d) Obtained a certificate as a registered professional reporter or a registered merit reporter from a national court reporters association.
 - (e) Obtained a valid certificate that is issued by another state and that evidences the equivalent proficiency and the ability to make a verbatim record of material.
 - (f) Demonstrated reasonable proficiency in making verbatim records of trial or judicial or other related proceedings through the applicant's ability to pass an approved examination for certification pursuant to rules adopted by the supreme court.
 5. Is of good moral character.
 6. Has not engaged in any conduct that would constitute grounds for denial, revocation or suspension of certification pursuant to section 32-4006, 32-4024 or 32-4041, Arizona Revised Statutes.
 7. Complies with the laws and rules and orders adopted by the supreme court governing court reporters in this state
- b. An applicant who applies for certification based on graduation from a court reporting school pursuant to the provisions of subsection E(1)(a)(4)(b) of this code section shall provide a statement of satisfactory completion demonstrating the applicant's ability to pass or complete all of the following:
- (1) 3 testimony tests (question and answer) at 225 words per minutes at 95% accuracy;
 - (2) 3 jury charge tests at 200 words per minute at 95% accuracy;

- (3) 3 literary tests at 180 words per minute with 95% accuracy;
- (4) 2, 5 minute keyboarding tests at net 60 words per minute;
- (5) 40 hours of internship verified by a working certified court reporter;
- (6) Production of a 40 page salable transcript; and
- (7) Course work that includes introduction to law, court procedures, business English, word processing, computer-aided transcription and medical vocabulary.

2. Procedures for Application.

- a. Applicants shall file a completed application with the board. The applicant shall sign the application and have it duly verified under oath.
- b. In addition, Arizona Laws 2000, Ch. 41, § 13(C)(8) provides applicants shall pay “. . . the fees required pursuant to section 32-4008, Arizona Revised Statutes.” The program coordinator shall collect in advance the fees specified in the fee schedule, which are not refundable. The program coordinator shall forward the fees to the state treasurer for deposit in the Court Reporters Fund, pursuant to A.R.S. § 32-4007.
- c. Arizona Laws 2000, Ch. 41, § 13(C)(9) provides that an applicant shall submit “. . . a full set of fingerprints with the fee prescribed in section 41-1750 to the supreme court for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and public law 92-544.”
- d. The applicant is responsible for providing the supreme court with a readable fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints. The applicant shall only use the fingerprint card issued in the application packet and shall have the fingerprints taken by a law enforcement agency.
- e. The board may require the applicant, if definitive fingerprints are not obtainable, make a written statement, under oath, that the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application. If the applicant is unable to provide the statement, the board may refuse to accept the application.
- f. The board may waive the requirement for a fingerprint card if the applicant has previously provided a fingerprint card to the supreme court.
- g. The supreme court shall submit completed applicant fingerprint cards and the fees to the Arizona Department of Public Safety. The Arizona Department of Public Safety shall conduct applicant criminal history record checks pursuant to applicable state laws. The Arizona Department of Public Safety, on behalf of the board, shall exchange registration applicant fingerprint card information with the Federal Bureau of Investigation for national criminal history record checks.

- h. Arizona Laws 2000, Ch. 41, § 13(D) provides: “An applicant for temporary certification may be required to include with the application signed affidavits from three attorneys or judges for whom the court reporter has reported depositions or other judicial proceedings and prepared transcripts.”

3. Decision Regarding Certification.

- a. Arizona Laws 2000, Ch. 41, § 13(A) provides: “The board of certified court reporters shall grant temporary certificates to practice court reporting pursuant to this act to persons who, to the satisfaction of the board, meet the requirements of subsections C, D and E of this section. If an applicant fails to meet these requirements, the board may refuse to issue or renew a temporary certificate.”

- b. The board shall promptly notify qualified applicants of certification in accordance with this code section. Each certified applicant shall receive a document evidencing certification, in a form determined by the board, stating the applicant’s name, date of certification, and certificate number.

- c. Denial of Certification.

- (1) Arizona Laws 2000, Ch. 41, § 13(E) provides: “Pursuant to rules adopted by the supreme court, the board of certified court reporters may refuse to issue or renew a temporary certificate for cause.” Further, A.R.S. § 32-4024(A) provides:

- A. The board may refuse to issue a certificate . . . if the board finds that any of the following applies:

- . . .
 - 2. The applicant has not been fingerprinted and the supreme court has not received and reviewed the criminal records check analysis.
 - 3. The applicant has not submitted the applicable documents and fees.
 - 4. The applicant committed fraud, dishonesty, corruption or material misrepresentation in applying for a certificate or on a certificate examination in this state or another state.
 - 5. The applicant has a record of a conviction by final judgment of a felony or any other offense involving moral turpitude.
 - 6. The applicant is currently on probation, parole or community supervision for a felony offense or is named in an outstanding warrant.
 - 7. The court has ordered treatment for the applicant pursuant to Title 36 or has found the applicant to be incapacitated pursuant to Title 14.

8. The applicant is subject to revocation or suspension of a certificate pursuant to section 32-4041 or has had any occupational or professional license denied, revoked or suspended.
 9. The applicant has been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.
- (2) An applicant's failure to disclose information on the application that is subsequently revealed through the fingerprint background check may constitute good cause, and the board may automatically deny certification.
 - (3) The board shall promptly notify applicants denied certification, in accordance with this code section, the reasons for the denial, and of the applicant's right to a hearing.
 - (4) An applicant is entitled to a hearing, pursuant to this code section, on the decision to deny certification or renewal if a written request is received within 15 days after receipt of notice of the denial. The applicant is the moving party and has the burden of proof at the hearing.

F. Role and Responsibilities of Certificate Holders.

1. Code of Conduct. Each certified court reporter shall adhere to the code of conduct incorporated in this code section and adopted by the supreme court, pursuant to this code section and A.R.S. § 32-4005.
2. Identification. A.R.S. § 32-4003(C) provides: "Beginning July 1, 2000, a certified court reporter shall include the title "certified court reporter" and the reporter's certificate number on the title or cover page of any transcript, on any business card, advertisement or letterhead and on the certificate of any transcript."
3. Certification of Transcripts. A.R.S. § 32-4003(B) provides: "Beginning July 1, 2000, a certified court reporter shall sign and certify each transcript that the certified court reporter prepares before the transcript may be used in court, except for transcripts that the court reporter prepares for proceedings that occurred before July 1, 2000."
4. Oaths and Affirmations. A.R.S. § 32-4025 provides: "A certified court reporter may administer oaths and affirmations."
5. Change of Name or Address. A.R.S. § 32-4023(C) provides: "A certificate holder shall inform the supreme court of any change in name or address within thirty days after the change occurs." The certificate holder shall send this notice to the program coordinator.

G. Renewal of Certification.

1. Expiration Date. Arizona Laws 2000, Ch. 41, § 13(B) provides: "All temporary certificates shall be renewed annually and may not be renewed beyond December 31, 2002, except that the board may renew temporary certificates after December 31, 2002 due to extenuating

circumstances.” Certificates expire at midnight on December 31 of each year. All certifications shall continue in force until expired, suspended, revoked or terminated. If the board receives the request for renewal and prescribed fees after the established deadline, the board shall determine the certificate expired as of December 31. The board shall treat any renewal application postmarked after the established deadline as a new application.

2. Voluntary Surrender. An applicant may voluntarily surrender a certificate, however, this surrender is not valid until accepted by the board. The board may require additional information which is reasonably necessary to determine if the certificate holder has violated this code section. The board shall, within 120 days of the voluntary surrender of the certification, either file a notice of hearing regarding a complaint and disciplinary action, or accept the surrender.
3. Application. A.R.S. § 32-4023(B) provides: “The certificate holder is responsible for applying for a renewal certificate.” A certified court reporter must annually submit a completed renewal application, applicable fees and documentation by the renewal application deadline established by the board to remain eligible to serve as a court reporter in Arizona.
4. Continuing Education. A.R.S. § 32-4023(D) provides: “A certificate holder shall include with the application for renewal documentation satisfactory to the board that the certificate holder has successfully completed at least ten hours of approved continuing education each year.”
5. The board may, before granting a renewal of certification, require additional information which is reasonably necessary to determine if the applicant continues to meet the qualifications specified in this code section. This may include background information, fingerprinting or a signed affidavit.
6. Decision Regarding Renewal.
 - (1) A.R.S. § 32-4023(B) provides: “. . . On receipt of the renewal application and the renewal fee, the board shall issue the applicant a new certificate for one year unless the board finds that the applicant does not meet the requirements for renewal or that section 32-4024 applies.”
 - (2) Pursuant to A.R.S. § 32-4024, the board may deny renewal of a certificate for any of the reasons specified in subsection E(3)(c) of this code section.
 - (3) The board shall promptly notify qualified applicants of the renewal of their certification in accordance with this code section. Each certified applicant shall receive a document evidencing certification, in a form determined by the board, stating the applicant’s name, date of certification, and certificate number.
 - (4) The board shall promptly notify applicants denied renewal of certification, in accordance with this code section, of the reasons for the denial, and of the applicant’s right to a hearing.

- (5) An applicant is entitled to a hearing, pursuant to this code section, on the decision to deny renewal if a written request is received within 15 days after receipt of notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections H(9) through H(20) and H(23) of this code section apply regarding the procedures for the hearing and appeal.

H. Complaints, Investigation, Hearings and Disciplinary Action.

1. Complaint.

- a. A.R.S. § 32-4006(A) provides: “On its own motion or on receipt of a complaint, the board shall investigate, prosecute and adjudicate alleged violations of this chapter, as appropriate, and may conduct any investigation that would aid in the enforcement of this chapter.”
- b. All judicial officers or their designee shall, and any person may, notify the board if it appears a certificate holder has violated this code section. The complainant shall provide the complaint in writing with sufficient specificity to warrant further investigation. The complaint shall also provide the name and telephone number of the complainant.
- c. A certificate holder is subject to disciplinary action if the board finds 1 or more of the following applies to the certificate holder:
- (1) Wilful violation of or wilful noncompliance with applicable laws or a court order or an order of the board, or any provision of Arizona Rules of Court or this code section;
 - (2) Failure to perform any duty to discharge any obligation required by this code section;
 - (3) Any of the reasons cited in A.R.S. § 32-4041(A) that grant the board authority to revoke or suspend a certificate as follows:
 - ... 1. Unprofessional conduct.
 2. Violations of this chapter.
 3. Gross negligence or incompetence in the performance of duties.
 4. Fraud, dishonesty or corruption.
 5. Inability to perform the duties of a court reporter at a level of skill that is required by the board.
 6. Aiding or assisting another person to engage in the verbatim reporting of any judicial proceeding if the other person is not a certified court reporter.
 7. Conviction by final judgment of a felony offense or any other offense involving moral turpitude.

8. The court has ordered treatment for a certified court reporter pursuant to Title 36 or has found a certified court reporter to be incapacitated pursuant to Title 14.
 - d. The expiration provisions described in subsection G of this code section do not affect the right of the board to investigate and take disciplinary action regarding the certification of a certificate holder if a complaint or investigation is pending prior to the expiration date. Non-renewal of the certification by the certificate holder does not affect this provision.
 - e. The board shall dispose of a complaint by dismissal or imposition of 1 or more informal or formal sanctions, as provided in this code section.
2. Initial Screening. The board shall determine if a complaint warrants further investigation and evaluation. If the board determines the complaint is outside the jurisdiction of Title 32, Chapter 40, Arizona Revised Statutes and this code section, the board shall dismiss the complaint. The board may refer the complaint to another state agency or entity with jurisdiction, if appropriate.
3. Preliminary Investigation. The program coordinator, at the direction of the board, shall conduct a prompt, discreet and confidential investigation of the complaint and timely report the findings to the board.
4. Request for Response from Certificate Holder. The board shall deliver the complaint to the certificate holder within a reasonable period of time after commencement of the investigation and shall request the certificate holder provide a written response. The board shall not proceed with disciplinary action under this code section without providing this notice and the opportunity to respond.
5. Review of Complaint and Investigation. Upon completion of the investigation, the board may:
 - a. Determine no violation exists and dismiss the complaint;
 - b. Order further investigation;
 - c. Determine the complaint is appropriately handled without formal proceedings; or
 - d. Determine the alleged violations constitute formal charges, and request staff to prepare the notice of hearing and proceed as provided in subsection (H)(8) of this code section.
6. Emergency Suspension. A.R.S. § 32-4041(B) provides: "... if the board finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect in the order, the board may order the summary suspension of a certificate pending a proceeding for certificate revocation or other action." The board shall promptly institute these proceedings within 30 days. The program coordinator shall immediately notify all presiding judges of the superior court of any summary suspension.

7. Confidentiality. The board, program staff and court employees shall keep information or documents obtained or generated by the board, program staff or court employees in the course of an open investigation or received in an initial report of misconduct confidential except as mandated by public record rules adopted by the supreme court or by this code section. Upon determination by the board the alleged violations are sufficiently serious to warrant filing of formal charges, the complaint and all records of the proceedings and actions by the board pertaining to the complaint are open to the public. Any complaint dismissed by the board pursuant to subsections H(2) or H(5)(a) of this code section is confidential and not subject to public inspection. The following actions by the board, whether imposed as the result of informal or formal proceedings, are open to the public:

- a. A cease and desist order;
- b. Restrictions on a certificate;
- c. A mandate for additional training;
- d. Imposition of a cost or fine;
- e. Suspension of a certificate;
- f. Revocation of a certificate.

8. Formal Proceedings.

- a. Commencement. The board may commence formal proceedings if the board finds reasonable cause to believe the certificate holder has committed misconduct under this code section and the complaint is not appropriate for resolution by informal discipline. Upon commencement of formal proceedings, the board may select a presiding hearing officer, pursuant to subsection H(10) of this code section.
- b. Notice to Certificate Holder. The board shall serve the formal statement of charges on the certificate holder with a notice advising the certificate holder of the certificate holder's rights pursuant to this code section. This notice shall comply with the provisions of subsection H(12) of this code section.

9. Request for Hearing. All demands for hearing must specify:

- a. The section of this code section which entitles the person to a hearing;
- b. The factual basis supporting the request for hearing; and
- c. The relief demanded.

10. Appointment of Hearing Officer. At the direction of the board, the board chair or the program coordinator may select a presiding hearing officer, knowledgeable in conducting hearings, to hold a hearing regarding the initial or renewal certification of an applicant or alleged misconduct by a certificate holder, pursuant to this code section, or upon written

demand by a person entitled to a hearing, pursuant to this code section. The board may request the presiding judge of the superior court in the county in which the alleged violation took place, if applicable, supply the appointed presiding hearing officer, a hearing room and any other necessary resources.

11. Time line for Hearing. The presiding hearing officer shall ensure the hearing is held within 45 days of receipt of the request if the request is made by an applicant, unless postponed by mutual consent for good cause. If the request is from the board, the hearing shall be held as soon as practical at the discretion of the presiding hearing officer but no less than 15 days after notice, as required by section H(12) of this code section.
12. Notice of Hearing. The board shall prepare and give notice to the parties, at least 15 days prior to the date set for hearing. The notice shall include the following information:
 - a. A statement of the time, place and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction for conduct of the hearing;
 - c. A reference to the particular sections of the statutes, this code section and policies involved;
 - d. A short and plain statement of the allegations or factual basis supporting the relief requested, which may be amended as necessary;
 - e. If the notice is for a violation or denial of certification and if the hearing date has not previously been set, a statement indicating the certificate holder or applicant is entitled to a hearing upon request, if the certificate holder or applicant makes a request in writing within 15 days of receipt of the notice;
 - f. The board shall accomplish service of the notice by personal service or by certified mail, return receipt requested to the last business address of record with the board. Proof of service is made by filing with the presiding hearing officer a verified statement that service was made. Service by mail is complete upon deposit in the United States mail.
 - g. If a party is represented by an attorney, the board shall make service upon the attorney.
13. Filings, Answers and Pleadings.
 - a. Parties shall file answers to the notices within 10 days after the date the notice is served, unless otherwise ordered by the presiding hearing officer. Answers shall comply with Rule 8 of the Arizona Rules of Civil Procedure. If a party fails to file an answer within the time provided, the person is in default and the presiding hearing officer may determine the proceeding against the party and admit 1 or more of the assertions contained in the notice. The presiding hearing officer shall determine that any defenses not raised in the answer are waived.
 - b. All motions must be filed at least 5 days prior to the scheduled hearing date, unless otherwise ordered by the presiding hearing officer.

- c. Responses to motions must be filed within 5 days of the filing of the motion.
- d. Copies of all filings shall be delivered to the presiding hearing officer, the board and all parties to the proceeding.

14. Discovery.

- a. No discovery is permitted, except as provided in this code section, unless mutually agreed to by the parties or permitted by the presiding hearing officer.
- b. The presiding hearing officer, upon written request, shall order a party to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to the discovery of admissible evidence prior to a hearing, provided the evidence is not privileged.
- c. The presiding hearing officer, on the motion of the presiding hearing officer or upon request, may require, prior to the hearing, the disclosure of documentary evidence intended for use at the hearing, provided the evidence is not privileged.
- d. Parties may take depositions for use as evidence of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing. In order to take a deposition, a party shall file with the presiding hearing officer a written motion, with copies to all parties, setting forth the name and address of the witness, subject matter of the deposition, documents, if any, the parties are seeking for production, time and place proposed for the deposition, and justification for the deposition.
- e. Parties shall file responses to requests for depositions, including motions to quash, within 5 days after the filing of the request for deposition.
- f. If a deposition is permitted, the presiding hearing officer shall issue a subpoena and a written order. The subpoena and order shall identify the person to be deposed, scope of testimony to be taken, documents, if any, to be produced, and time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order with service on all parties 5 days before the time fixed for taking the deposition unless, for good cause shown, the time is shortened by the presiding hearing officer.

15. Subpoenas.

- a. A.R.S. § 32-4006 provides: . . .
 - B. For the purposes of investigations or hearings under this chapter, the board may administer oaths and affirmations, subpoena witnesses, take evidence and require the production of documents, records or information, either kept in original form or electronically stored or recorded, or other items that are relevant or material to the inquiry.

- C. If a person fails to obey a subpoena issued pursuant to this section, the board may request the superior court to issue an order that requires the appearance by a person or the production of documents or other items, or both. The court may treat the failure to obey the order as contempt of court and may punish the contempt.
 - b. Subpoenas shall be issued in the same manner as provided by the Arizona Rules of Civil Procedure. An employee of the court or any other person as designated by the Arizona Rules of Civil Procedure may serve the subpoena.
 - c. Subpoenas shall be served as prescribed by the Arizona Rules of Civil Procedure.
 - d. The presiding hearing officer may, if a person fails to obey a subpoena lawfully served, request the superior court issue an order that requires the appearance of the person or the production of documents or other items, or both. The court may treat the failure to obey the order as contempt of court and may punish the contempt.
16. Prehearing Conference. The presiding hearing officer may order a prehearing conference at the request of any party or on the presiding hearing officer's own initiative. The purpose of the conference is to consider any or all of the following actions:
- a. To reduce or simplify the issues for adjudication;
 - b. To dispose of preliminary legal issues, including ruling on prehearing motions;
 - c. To stipulate to the admission of evidence, facts and legal conclusions that are not contested;
 - d. To identify witnesses;
 - e. To consider any other matters that aid in the expeditious conduct of the hearing.
17. Procedure at Hearings.
- a. The presiding hearing officer shall preside over the hearing. The presiding hearing officer has the authority to decide all motions, conduct prehearing conferences, determine the order of proof and manner of presentation of other evidence, issue subpoenas, place witnesses under oath, question witnesses, recess or adjourn the hearing and prescribe and enforce general rules of conduct and decorum. Informal disposition may be made of any case by stipulation, agreed settlement, consent order or default.
 - b. Rights of Parties. At a hearing:
 - (1) A party is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.

- (2) Any person may represent themselves or appear through counsel. An attorney who intends to appear on behalf of a party shall promptly notify the presiding hearing officer and the board providing the name, address and telephone number of the party represented and the name, address and telephone number of the attorney. A corporate officer may represent a business entity in any proceeding under this code section.
- (3) All persons appearing before a presiding hearing officer in any proceeding shall conform to the conduct expected in the Arizona Superior Court.

c. Conduct of Hearing.

- (1) The presiding hearing officer may conduct a hearing in an informal manner and without adherence to the rules of pleading or evidence. The presiding hearing officer shall require any evidence supporting a decision is substantial, reliable and probative and shall exclude irrelevant, immaterial or unduly repetitious evidence. There is no right to a jury. All hearings are open to the public.
- (2) The presiding hearing officer shall require that all testimony considered is under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation. The presiding hearing officer may administer oaths and affirmations.
- (3) In all matters brought at the request of the board, evidence in support of the board's action is presented first and carries the burden of proof. In matters brought at the request of someone other than the board, including requests for hearing on the denial of certification or renewal of certification, the person seeking the hearing shall present first and carries the burden of proof.

d. Record of Hearing.

- (1) The presiding hearing officer shall ensure that oral proceedings or any part of the oral proceedings are electronically recorded and, on request of any party, are transcribed. The party making the request shall pay the cost of the transcript.
 - (2) A competent court reporter shall make a full stenographic record of the proceedings if requested by a party within 5 days prior to a hearing and upon order of the presiding hearing officer. The requesting party shall pay the cost of the transcript. The presiding hearing officer may require prepayment or a monetary deposit to cover the cost of the transcript. If transcribed, the record is a part of the court's record of the hearing and any other party having a direct interest shall receive a copy of the stenographic record, upon request and at the expense of the party. If no request is made for a stenographic record, the presiding hearing officer shall ensure the proceedings are recorded as described in subsection H(17)(d)(1) of this code section.
18. Recommendations of Presiding Hearing Officer. The presiding hearing officer shall within 30 days of the closing of the record of a hearing, prepare written recommendations and deliver the recommendations to the board. The recommendations shall include findings of fact, based on a preponderance of evidence and conclusions of law, separately stated.

19. Rehearing. The presiding hearing officer may grant a rehearing or reargument of the matters involved in the hearing, upon written request of a party to a hearing. The requesting party shall file the request with the presiding hearing officer within 15 days after any order made pursuant to a hearing was mailed or delivered to the person entitled to receive the order. The presiding hearing officer shall make the decision to grant or deny the request within 30 days of the date of filing of the request. The requesting party shall base the request for rehearing or review on 1 or more of the grounds listed in Rule 59, Arizona Rules of Civil Procedure, which materially affected the rights of a party and shall conform to the requirements of Rule 59. The presiding hearing officer shall allow any party served with a request for rehearing to file a response within 15 days of service.
20. Decisions and Orders. The board shall render the final decision. The board shall make its final decision or order in writing and shall include findings of fact and conclusions of law, separately stated. The board shall find findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed. The board shall notify the parties, either personally or by mail to their last known address of any decision or order.
21. Possible Actions.
 - a. Upon completion of an investigation concerning alleged misconduct by a certificate holder, which may or may not include a hearing, the board shall do 1 or more of the following:
 - (1) Determine no violation exists;
 - (2) Resolve the violation by consent order or other negotiated settlement between the parties;
 - (3) Place restrictions on a certificate;
 - (4) Mandate additional training; or
 - (5) Impose a sanction as follows:
 - (a) Pursuant to A.R.S. § 32-4006(D) which provides: “D. The board shall impose cease and desist orders, issue letters of concern or warnings or order revocation or suspension of certification for violations of this article and assess costs and fines associated with these activities. These costs and fines shall be deposited in the court reporters fund established by section 32-4007.”
 - (b) The board may determine and impose a fine not to exceed \$2,000 for each failure or violation, and not to exceed an aggregate fine of \$15,000. The certified court reporter shall pay the fine to the board for remission to the state treasurer for deposit in the court reporters fund.
 - b. The board shall issue an order specifying in what manner and to what extent the failure or violation is found and specify any sanctions pursuant to this code section.

22. Procedure after Suspension or Revocation.

- a. Notice of Suspension or Revocation. Upon suspension or revocation of any certification the board shall timely serve notice upon the certificate holder either in person or by certified mail, return receipt requested, addressed to the last address of record with the board. Notice by mail is complete upon deposit in the United States mail.
- b. Reinstatement. A.R.S. § 32-4042 provides: “A court reporter whose certificate was suspended or revoked may apply in writing for a reinstatement of the certificate on a showing of good cause and paying the renewal fee. The board may grant or deny the request, may require the applicant to take or retake the examination for certification and may impose other conditions for reinstatement.”

23. Appeals. Decisions of the board pursuant to this code section are subject to judicial review in the Arizona Superior Court in Maricopa County pursuant to the provisions of A.R.S. § Title 12, Chapter 7, Article 6.

Section 7-207: Court Reporter Temporary Certification
Appendix A
Code of Conduct

Preamble. The following code of conduct is adopted by the Arizona Supreme Court to apply to all certified court reporters pursuant to Title 32, Chapter 40, Arizona Revised Statutes. The purpose of this code of conduct is to establish minimum standards for performance by certified court reporters.

Standard 1. Ethics.

- a. A court reporter shall avoid impropriety and the appearance of impropriety in all activities, shall respect and comply with the laws, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system.
- b. A court reporter shall exercise fairness and impartiality toward each participant in all aspects of reported proceedings and always offer to provide comparable service to all parties in a proceeding.
- c. 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.
- d. A court reporter shall be alert to situations that are conflicts of interest, that may give the appearance of a conflict of interest, or create an appearance of partiality.
- e. 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 impartiality.
- f. 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 that is harmful or detrimental to the public in the practice of court reporting. Proof of actual injury is not required.

Standard 2. Professionalism.

- a. A court reporter shall preserve the confidentiality and ensure the security of information, verbal or written, entrusted to the court reporter by the court or any of the parties in the proceeding.
- b. A court reporter shall be truthful and accurate when advertising or representing the court reporter's qualifications, skills or abilities, or the services provided.

- c. A court reporter shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.
- d. A court reporter shall keep abreast of current literature, technological advances and developments and shall fulfill ongoing training requirements to maintain professionalism.

Standard 3. Fees and Services.

- a. A court reporter shall charge all private parties or their attorneys in the same action the same price for an original transcript and charge all private parties or their attorneys the same price for a copy of a transcript for like services performed in an action.
- b. A court reporter shall disclose in writing to all parties or their attorneys upon request at any time an itemization of all rates and charges.
- c. A court reporter shall determine fees independently, except when established by statute or court order, entering into no unlawful agreements with other reporters on the fees to any user.
- d. A court reporter shall at all times exercise awareness of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:
 - (1) Establishing contingent fees as a basis of compensation;
 - (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services;
 - (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments;
 - (4) Directly or indirectly giving, for the benefit of employment, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for nominal items that do not exceed \$ 25.00 per transaction and \$ 100.00 in the aggregate per recipient each year;
 - (5) Entering into any written or verbal financial relationship with counsel, parties of interest or their intermediaries that:

- (a) Undermines the actual or perceived impartiality of the court reporter; or
- (b) Does not provide or offer any private party of interest comparable court reporting services in the same proceedings.

Standard 4. Skills and Practice.

- a. A court reporter shall take full and accurate stenographic notes of any proceeding and shall not wilfully alter the stenographic notes.
- b. A court reporter shall accurately transcribe verbatim any stenographic notes taken at any proceeding and shall not wilfully alter the transcript.
- c. A court reporter shall provide a transcript to a client or court in a timely manner. The court reporter shall meet promised delivery dates and make timely delivery of transcripts when no date is specified. A court reporter shall meet transcript preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A court reporter shall provide immediate notification of delays.
- d. A court reporter shall not go "*off the record*" during a deposition or court proceeding unless agreed to by all parties or their attorneys or ordered by the court.
- e. A court reporter shall accept only those assignments for which the court reporter's level of competence shall result in the preparation of an accurate transcript. The court reporter shall decline an assignment when the court reporter's abilities are inadequate.
- f. A court reporter shall prepare the record in accordance with applicable laws, rules or court order.
- g. A court reporter shall preserve the stenographic notes in accordance with Arizona laws, federal laws and the Arizona Rules of Court.

Standard 5. Official Court Reporters.

- a. An official court reporter may engage in freelance reporting duties only if the following criteria are met:
 - (1) The presiding superior court judge or designee has given express authorization; the reporter's official work is up to date and there are no transcripts the court reporter is preparing in which an extension of time has been granted by any court; and
 - (2) The presiding superior court judge or designee has authorized the reporter to take annual leave during the time the freelance work is scheduled unless:

- (a) The freelance work is scheduled during hours the court is not open for business; or
 - (b) The presiding superior court judge or designee has granted the reporter time off in compensation for overtime previously worked.
- b. A court reporter shall never purport to speak or act for a judge regarding judicial matters.
- c. A court reporter shall not express an opinion as to how a case should be decided or what verdict a jury will return.

Standard 6. Performance in Accordance with Law.

- a. The court reporter shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.
- b. Contracts covering court reporter services having a fixed period of time, minimum or otherwise, between persons holding certificates under this code section or any person for whom the reporters act as agents and any attorney at law or agent or any insurance company or agent or any other person, are prohibited. This prohibition does not prevent any person holding a certificate, upon request of an attorney or an agent of an attorney or an insurance company, from quoting rates for both originals and copies of depositions for a particular deposition, or for all depositions in a case, provided that the same rate is charged to all other parties obtaining copies and provided further the charge for the original is no less than 60 per cent higher than the charge per copy.
- c. A court reporter shall not take a deposition if the court reporter is:
 - (1) A party to the action;
 - (2) A relative, employee, or attorney of 1 of the parties;
 - (3) Someone with a financial interest in the action or its outcome; or
 - (4) A relative, employee, or attorney of someone with a financial interest in the action or the outcome. For the purposes of this subparagraph, “employee” or “relative” shall not include an employee or relative of the attorney or 1 of the parties.
- d. For the purposes of Standard 6(c) of this code section, “employee” includes a person who has a continuing contractual relationship with a person or entity interested in the outcome of the litigation, including anyone who may ultimately have responsibility for payment to provide reporting or other court services, and a person who is employed part-time or full-time under contract or otherwise by a person who has a contractual relationship with a party to provide reporting or other court services.

- e. A deposition is void if a person as described in Standard 6(c) of this code section takes a deposition.

Code Section 7-207: Court Reporter Temporary Certification
Appendix B
Certification Fee Schedule

Pursuant to A.R.S. § 32-4008, the Arizona Supreme Court shall set and collect fees necessary to carry out the provisions of Title 32, Chapter 40, Arizona Revised Statutes pertaining to the certification of court reporters.

A. Initial Certification.

- | | |
|---|-----------|
| 1. Initial Certification Fee | \$ 200.00 |
| 2. Fingerprint Processing Fee
<i>(Current rate set by Arizona law and subject to change)</i> | \$ 24.00 |

B. Renewal Certification.

- | | |
|--|-----------|
| 1. Annual Certification Renewal Fee
<i>(All certificates expire on December 31st of each year)</i> | \$ 200.00 |
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Section 7-207: Court Reporter Temporary Certification
Appendix C
Arizona Transcript Format Guidelines

Transcripts filed by certified court reporters in courts in the state of Arizona shall conform to the following guidelines:

1. No fewer than 25 typed lines on standard 8-1/2 x 11 inch paper;
2. No fewer than 9 or 10 characters to the typed inch;
3. Left-hand margin set at no more than 1-3/4 inches;
4. Right-hand margin set at no more than 3/8 inch;
5. Each question and answer to begin on a separate line;
6. Each question and answer to begin no more than 5 spaces from the left-hand margin with no more than 5 spaces from the q and a to the text;
7. Carry-over q and a lines to begin at the left-hand margin;
8. Colloquy material to begin no more than 15 spaces from the left-hand margin, with carryover colloquy to the left-hand margin;
9. Quoted material to begin no more than 15 spaces from the left-hand margin, with carry-over lines to begin no more than 10 spaces from the left-hand margin; and
10. Parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin, with carry-over lines to begin no more than 15 spaces from the left-hand margin.