

**RULES
OF
TENNESSEE BOARD OF COURT REPORTING**

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

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0455-01-05-.01 DEFINITIONS.

- (1) Reprimand: A formal or informal correspondence notifying the court reporter of a finding of an ethical violation with no further disciplinary action.
- (2) Civil Penalty: A monetary penalty of no more than \$500 per violation imposed by the Board. A civil penalty may be imposed where any person undertakes or attempts to undertake the practice of court reporting for remuneration without first having procured a license, or knowingly presents or files false information with the board for the purpose of obtaining a license, or otherwise violates the Tennessee Court Reporter Act of 2009 or the rules promulgated thereunder.
- (3) Probation: The monitored practice of court reporting which permits the court reporter to continue to practice pursuant to specified conditions as set forth by the Board.
- (4) Suspension: The temporary withdrawal of the license by the Board.
- (5) Revocation: The withdrawal of the license by Board action.
- (6) Voluntary Surrender: The voluntary relinquishment of a license that has the force and effect of a revocation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010.

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

- (1) The following may be grounds for denial of a license:
 - (a) Failure to meet any requirement or standard established by law or by rules and regulations adopted by the Board.
 - (b) Engaging in fraud, misrepresentation, deception, or concealment of a material fact in applying for or securing licensure or taking any examination required for licensure.
 - (c) Having disciplinary action pending or having a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory or country.

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

- (d) Having been court-martialed or administratively discharged by a branch of the United States Armed Forces for any act or conduct that would constitute grounds for discipline.
- (e) Any other reason authorized by law.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-609, 20-9-610, and 20-9-612. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010.

0455-01-05-.03 GROUNDS FOR DISCIPLINE OF A LICENSEE OR DENIAL OF RENEWAL OR REINSTATEMENT.

- (1) The Board may suspend, revoke or otherwise discipline any court reporter upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license by:
 - 1. Filing false, forged or altered documents or credentials, including required continuing education documentation.
 - 2. Misrepresenting or falsifying facts in applying for original licensure, renewal, reactivation or reinstatement of license.
 - 3. Having another person appear for a licensing or certification examination.
 - (b) Has been convicted of a felony or a crime of moral turpitude that reflects on the court reporter's honesty, trustworthiness or fitness as a court reporter in other respects.
 - (c) Is impaired due to the use of alcohol, or is addicted to the use of habit-forming drugs to such an extent as to render the court reporter unsafe or unreliable.
 - (d) Is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters of court reporting, which includes but is not limited to:
 - 1. Failure to comply with the Tennessee Court Reporting Act and Rules and Regulations as well as federal, state or local laws, rules or regulations applicable to the area of court reporting practice.
 - 2. Failure to practice court reporting in accordance with the standards of practice adopted by the Board.
 - 3. Practice beyond the scope of practice as determined by, but not limited to educational preparation; license status; state and federal statutes and regulations; state and national standards appropriate to the type of practice; and court reporting experience.
 - 4. Falsification of credentials,
 - 5. Falsification of employment records,
 - 6. Representing oneself as a court reporter without a license and,

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

7. Having a license denied, conditionally issued, reprimanded, placed on probation, suspended, revoked, or voluntarily surrendered in another state, territory or country, or having been court-martialed or administratively discharged by a branch of the United States Armed Forces for any act or conduct which would constitute grounds for disciplinary action in this state. A certified copy of the record of the agency that took such action shall be conclusive evidence of the grounds for discipline.
- (e) Has failed to respond to official Board correspondence, including but not limited to requests for information, subpoenas, or notices.
 - (f) Has willfully or repeatedly violated any of the provisions of a statute or rule by conduct that includes but is not limited to:
 1. Practicing or seeking to practice court reporting without a current license.
 2. Impersonating an applicant for licensure or another licensed practitioner or permitting or allowing another person to use the court reporter license.
 3. Continued violation of statute or rule after notice by the Board.
 4. Failure to comply with any stipulated terms and conditions of any Board order or contract.
 5. Violation of one or more of the Standards of Professional Conduct found at Rule 0455-01-04-.01.
 - (g) Has failed to comply with continuing education requirements.
 - (h) Has submitted payment of any fees or civil penalties to the Board with a worthless check, invalid credit card, or by any other method that is not honored by the financial institution.
 - (i) Poses a risk to public safety for any other reasons stated by law.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-608, 20-9-609, 20-9-610, 20-9-611, and 20-9-612. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010.

0455-01-05-.04 INVESTIGATIONS AND COMPLAINTS.

- (1) The Board may investigate any person engaged, or suspected of engaging, in any business or activity regulated under the Tennessee Court Reporter Act of 2009.
- (2) Upon receipt of any written complaint regarding any licensee or person engaged in unlicensed activity, the Board shall provide a copy of the written complaint to the accused party within five (5) days. Such party shall file a written answer to the complaint, within twenty (20) days, upon request by the Board.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Amendments filed November 17, 2016; effective February 15, 2017.

0455-01-05-.05 UNIFORM ADMINISTRATIVE PROCEDURES ACT.

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

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Amendments filed November 17, 2016; effective February 15, 2017.

0455-01-05-.06 CIVIL PENALTIES.

- (1) With respect to any licensed court reporter or temporarily licensed court reporter, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee for each separate statutory or regulatory violation, not to exceed five hundred dollars (\$500.00) per violation.
- (2) With respect to any person required to be licensed in this state as a court reporter, the Board may assess a civil penalty against such person for each separate statutory or regulatory violation not to exceed five hundred dollars (\$500.00) per violation.
- (3) Each daily violation constitutes a separate offense.
- (4) In determining the amount of any penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of noncompliance;
 - (e) The interest of the public; and
 - (f) Willfulness of the violation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, 20-9-608, and 56-1-308. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Amendments filed November 17, 2016; effective February 15, 2017.

0455-01-05-.07 REINSTATEMENT OF A SUSPENDED OR REVOKED LICENSE.

- (1) Application for reinstatement shall include evidence of corrective action taken by the licensee. Such application shall be made utilizing the forms provided by the Board.
- (2) In considering reinstatement of a revoked license, the Board may evaluate factors that include but are not limited to:
 - (a) Severity of the act(s) that resulted in suspension or revocation of the license.
 - (b) Conduct of the applicant subsequent to the suspension or revocation of license.

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

- (c) Lapse of time since suspension or revocation.
- (d) Compliance with all reinstatement requirements stipulated by the Board.
- (e) Rehabilitation attained by the applicant as evidenced by statements provided directly to the Board from qualified individuals who have professional knowledge of the applicant.
- (f) Violation by the applicant of any applicable statute or rule.
- (g) Direct or implied representation(s) of licensure by the individual during the period of revocation.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Amendments filed November 17, 2016; effective February 15, 2017.

0455-01-05-.08 REPEALED.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Repeal filed November 17, 2016; effective February 15, 2017.

0455-01-05-.09 REPEALED.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Repeal filed November 17, 2016; effective February 15, 2017.

0455-01-05-.10 REPEALED.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Repeal filed November 17, 2016; effective February 15, 2017.

0455-01-05-.11 REPEALED.

Authority: T.C.A. §§ 20-9-605, 20-9-606, 20-9-607, and 20-9-608. **Administrative History:** Emergency rule filed February 1, 2010; effective through July 31, 2010. New rule filed February 1, 2010; effective July 29, 2010. Rule petitioned March 1, 2010. Emergency rule filed February 1, 2010 expired effective August 1, 2010. Original rule filed July 26, 2010; effective October 24, 2010. Repeal filed November 17, 2016; effective February 15, 2017.