

NALA Certifying Board

Rules for Disciplinary Proceedings

Scope and Purpose

These rules establish the procedures that the NALA Certifying Board (the "Board") will follow in investigating and taking action on any charge of violation of any attestation signed in connection with application for the CLA designation, specifically including the NALA Code of Ethics and Professional Responsibility. Their purpose is to assure that such charges are investigated fully and resolved fairly, consistent with the integrity of the CLA program.

Threshold Inquiry

If any such charge comes to the attention of a member of the Board, the member will report it to the chairman. The chairman will promptly investigate to determine (a) whether the matter falls within the jurisdiction of the Board and (b) whether the charge, if true, would constitute grounds for discipline.

The chairman will then notify the Board, either by mail or at its next regular meeting, of the charge and the results of the threshold inquiry. If the Board determines that the matter falls outside its jurisdiction or the charge, even if true, would not constitute grounds for discipline, the matter shall be closed.

Investigation

Otherwise, the Board shall investigate the charge as follows. The Board may act by committee, provided that the chairman shall be a member of the committee. The committee shall be composed of a minimum of three (3) members of the Certifying Board, to include a paralegal educator, an attorney, and a Certified Legal Assistant Specialist. Each member of the Appellate Committee shall have served a minimum of one (1) year on the Certifying Board.

Notice to Respondent. The Board will first notify each individual ("Respondent") who might be subject to discipline if the charge proves to be true. The notice will be by regular mail to the last known address and will:

- * describe the charge,
- * invite the Respondent to file a written response making full and complete disclosure of all information pertinent to the charge within the knowledge of the respondent,
- * describe the time within which the response should be submitted, and
- * enclose a copy of these rules.

Method of Investigation

The Board will then conduct the investigation by such methods as it considers necessary or appropriate, including personal interviews and review of documents. It is the obligation of a CLA to cooperate with such an investigation.

The Respondent is entitled to know the identity of the charging party, to see all evidence that is considered by the Board, and to submit written evidence and argument in response thereto.

Personal Appearance. If in its sole discretion the Board believes that a personal appearance would materially aid the investigation, it shall offer the Respondent an opportunity to appear and present evidence and argument in person. The Board shall determine the time and place and set such rules as it deems appropriate in the circumstances. The Respondent will bear his or her own costs of attendance.

Presumption of Innocence. No adverse inference shall be drawn from the failure or refusal of the Respondent to cooperate with the investigation.

Board Action

The Board will consider the results of the investigation. It may but need not schedule a special meeting for this purpose.

Findings of Fact. The Board will identify the material facts disclosed by the investigation, making such inferences and credibility determinations as are necessary.

Conclusions. Based on its findings, the Board will decide whether or not there has been a violation of any attestation signed in connection with application for the CLA designation, specifically the NALA Code of Ethics and Professional Responsibility.

Discipline. If the Board concludes that there has been a violation, it will determine what discipline is appropriate, which may include:

- * cautioning the Respondent that, while the Board has concluded that no other discipline is necessary at that time, the Respondent's conduct is unacceptable and may result in discipline if continued or repeated;
- * suspending the Respondent's CLA designation for such time and subject to such requirements for reinstatement as the Board may determine; or
- * revoking the Respondent's CLA designation.

In deciding on discipline, the Board will take into account such factors as it deems appropriate, which may include:

- * whether the offense was deliberate or inadvertent,
- * what notice the Respondent had of the appropriate standard of conduct,
- * the effect of the offense on the integrity of the CLA program,
- * the effect of the offense on the reputation of CLA program, and
- * whether the Respondent is a repeat offender.

Notice to Respondent. The Board will notify the Respondent in writing of its findings, conclusions and the discipline imposed.

Recusal. No member of the Board will participate in the investigation or resolution of any charge in which he or she has a personal interest.

Emergency Action

In extraordinary circumstances which pose a threat of irreparable harm to the CLA program, the chairman of the Board may, with the concurrence of the NALA president, take such emergency action as is necessary to preserve the integrity of the CLA program before the Board has an opportunity to consider the matter. Such action may include barring an applicant from sitting for the CLA examination. The Board will consider the matter de novo at the earliest opportunity.

Confidentiality

Except as necessary to conduct the investigation, the Board will not reveal the existence of an investigation.

After concluding an investigation that results in disciplinary action, the Board will notify the NALA staff of the identity of the individual and the discipline imposed to the minimum extent necessary to implement the discipline.

After concluding an investigation that results in disciplinary action, the Board may also prepare a brief written summary of the conduct that resulted in discipline and the discipline imposed, without revealing the name of the respondent, which summary may be published in an official publication of NALA for the guidance of the membership.

Except as otherwise set forth here, the Board will not disclose to anyone the identity of the Respondent, the charge, the results of the investigation, or the discipline imposed.

Failure to Maintain Continuing Legal Education

Notwithstanding anything in these rules to the contrary, the procedure for revocation of certification and use of the CLA designation for failure to meet continuing education requirements shall be:

- * Notice by mail of expiration of the CLA designation. Said notice provides a probation period of one year in order to submit the required number of continuing legal education units.
- * Upon expiration of the one year probation period, if the required continuing legal education units have not been submitted, a notice of revocation is mailed to the individual advising that the certification has been revoked and further use of the CLA designation is prohibited.
- * Upon receipt of evidence of required continuing legal education units, recertification audit verification form is mailed, and must be signed, notarized and returned within 30 days from date of audit.

A Certified Legal Assistant may appeal in writing to the Certifying Board for review of the Board's actions concerning continuing legal education credit requests. Such appeal must include any and all relevant documentation to be considered and must be received at NALA Headquarters thirty (30) days prior to the next regularly scheduled meeting of the Certifying Board. Such appeal shall be reviewed by an Appellate Committee which shall be composed of a minimum of three (3) members of the Certifying Board, to include a paralegal educator, an attorney, and a Certified Legal Assistant Specialist. Each member of the Appellate Committee shall have served a minimum of one (1) year on the Certifying Board. The Certified Legal Assistant shall be provided with notice of the time and place of the meeting of the Appellate Committee. The Certified Legal Assistant shall have the opportunity to appear in person and/or to be represented by counsel and to present any defense or explanation before the Appellate Committee. The Certified Legal Assistant will bear his or her own costs of attendance and/or representation. After consideration of the matter under appeal, the Appellate Committee shall submit its recommendation for action to the Certifying Board. A majority vote of the Certifying Board members present shall be final in the matter under appellate review.

Code of Ethics and Professional Responsibility of the National Association of Legal Assistants, Inc.

Preamble. A legal assistant must adhere strictly to the accepted standards of legal ethics and to the general principles of proper conduct. The performance of the duties of the legal assistant shall be governed by specific canons as defined herein so that justice will be served and goals of the profession attained. (See Model Standards and Guidelines for Utilization of Legal Assistants, Section II.)

The canons of ethics set forth hereafter are adopted by the National Association of Legal Assistants, Inc. as a general guide intended to aid legal assistants and attorneys. The enumeration of these rules does not mean there are not others of equal importance although not specifically mentioned. Court rules, agency rules and statutes must be taken into consideration when interpreting the canons.

Definition. Legal assistants, also known as paralegals, are a distinguishable group of persons who assist attorneys in the delivery of legal services. Through formal education, training and experience, legal assistants have knowledge and expertise regarding the legal system and substantive and procedural law which qualify them to do work of a legal nature under the supervision of an attorney.

Canon 1. A legal assistant must not perform any of the duties that attorneys only may perform nor take any actions that attorneys may not take.

Canon 2. A legal assistant may perform any task which is properly delegated and supervised by an attorney, as long as the attorney is ultimately responsible to the client, maintains a direct relationship with the client, and assumes professional responsibility for the work product. (See NALA Model Standards and Guidelines, Section IV, Guideline 5.)

Canon 3. A legal assistant must not: (See NALA Model Standards and Guidelines, Section IV, Guideline 2.)

- (a) engage in, encourage, or contribute to any act which could constitute the unauthorized practice of law; and
- (b) establish attorney-client relationships, set fees, give legal opinions or advice, or represent a client before a court or agency unless so authorized by that court or agency; and
- (c) engage in conduct or take any action which would assist or involve the attorney in a violation of professional ethics or give the appearance of professional impropriety.

Canon 4. A legal assistant must use discretion and professional judgment commensurate with knowledge and experience but must not render independent legal judgment in place of an attorney. The services of an attorney are essential in the public interest whenever such legal judgment is required. (See NALA Model Standards and Guidelines, Section IV, Guideline 3.)

Canon 5. A legal assistant must disclose his or her status as a legal assistant at the outset of any professional relationship with a client, attorney, a court or administrative agency or personnel thereof, or a member of the general public. A legal assistant must act prudently in determining the extent to which a client may be assisted without the presence of an attorney. (See NALA Model Standards and Guidelines, Section IV, Guideline 1.)

Canon 6. A legal assistant must strive to maintain integrity and a high degree of competency through education and training with respect to professional responsibility, local rules and practice, and through continuing education in substantive areas of law to better assist the legal profession in fulfilling its duty to provide legal service.

Canon 7. A legal assistant must protect the confidences of a client and must not violate any rule or statute now in effect or hereafter enacted controlling the doctrine of privileged communications between a client and an attorney. (See NALA Model Standards and Guidelines, Section IV, Guideline 1.)

Canon 8. A legal assistant must do all other things incidental, necessary, or expedient for the attainment of the ethics and responsibilities as defined by statute or rule of court.

Canon 9. A legal assistant's conduct is guided by bar associations' codes of professional responsibility and rules of professional conduct.

