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The Certified Paralegal Program

Disciplinary Procedures

Section 6

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Disciplinary Procedures

Rules for Disciplinary Complaints

1. Introduction

1.1 Scope and Purpose

These rules establish the procedures that the Disciplinary Committee will follow in investigating and taking action on any charge of violation of any action or conduct described in this manual. The Disciplinary Committee's purpose is to assure that such charges are investigated fully and resolved fairly, consistent with the integrity of the Certified Paralegal program.

1.2 Disciplinary Complaints

The Certified Paralegal credential may be suspended or revoked if it is found the Certified Paralegal has:

- falsified information on any document submitted to the Certifying Board;
- been convicted of the unauthorized practice of law since applying for the Certified Paralegal credential;
- failed to meet continuing legal education requirements;
- divulged the contents of any examination question;
- been convicted of a felony since applying for the Certified Paralegal credential;
- violated the NALA Code of Ethics and Professional Responsibility;
- violated the "Terms and Conditions of Testing;" or
- engaged in any other conduct determined by a majority vote of the Certifying Board to be unethical or unprofessional.

2. Filing a Complaint

If any person believes that a Certified Paralegal has been convicted of a felony or violated any of these standards, the individual should contact NALA in writing. Such communication should be marked "Confidential." The information provided should include documents which substantiate any claim of conviction or improper behavior.

3. Revocation based on Failure to Meet CLE Requirements

Procedures for appeal of revocation of the Certified Paralegal credential based on failure to meet the Continuing Legal Education requirements of the Certifying Board may be found in this manual.

4. Procedures for Investigating a Complaint

The Certifying Board's Procedures for Disciplinary Proceedings are published in their entirety below.

Procedures for Disciplinary Proceedings

1. Scope and Purpose

The Certifying Board will follow the following procedures in investigating and taking action of:

- falsification of any document submitted to the Certifying Board including any attestation, application or recertification for the Certified Paralegal designation,
- violation of the NALA Code of Ethics and Professional Responsibility, or
- violation of the “Terms and Conditions of Testing” during the examination

The purpose of these procedures is to assure that such charges are investigated fully and resolved fairly, consistent with the integrity of the Certified Paralegal program.

2. Response to a Complaint

Certification staff will acknowledge receipt of the complaint and, in response, provide a copy of the current Disciplinary Procedures which the Certifying Board will follow in investigating the complaint.

This acknowledgment will point out the rule which states that the Certified Paralegal or examination candidate is entitled to know the identity of the charging party, and to review the documents submitted in substantiation of the claim. The person may then have the option of withdrawing the complaint or requesting an exception to this rule if the person wishes to remain anonymous.

3. Threshold Inquiry

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

The chair will then notify the Certifying Board of the charge and the results of the threshold inquiry. If the Certifying 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.

4. Investigation

If the charge satisfies the threshold inquiry, the Certifying Board shall investigate the charge as follows. The Certifying Board may act by committee, provided that the Chair shall be a member of the committee. The committee shall be composed of a minimum of three members of the Certifying Board, to include a paralegal educator, an attorney, and a paralegal. Each member of the Investigation Committee shall have served a minimum of one year on the Certifying Board.

4.1 Notice to Certified Paralegal

The Certifying Board will first notify each Certified Paralegal who may be subject to discipline if the Certifying Board proves the charge to be true. The notice will be by certified mail to the last known address and will:

- describe the charge which specifies the rule violated,
- invite the Certified Paralegal to file a written response making full and complete disclosure of all information pertinent to the charge within the knowledge of the Certified Paralegal, and

- describe the time within which the response should be submitted.

4.2 Method of Investigation

The Certifying 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 the Certified Paralegal to cooperate with such an investigation or the Certifying Board will take appropriate action.

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

4.3 Personal Appearance

If in its sole discretion the Certifying Board believes that a personal appearance would materially aid the investigation, it shall offer the Certified Paralegal 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 Certified Paralegal will bear his or her own costs of attendance.

4.4 No Adverse Inference

No adverse inference shall be drawn from the failure or refusal of the Certified Paralegal to cooperate with the investigation.

5. Board Action

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

5.1 Findings of Fact

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

5.2 Conclusions

Based on its findings, the Certifying Board will decide whether or not there has been a falsification of any information on any document submitted to the Certifying Board or violation of the NALA Code of Ethics and Professional Responsibility or the terms and conditions of testing.

5.3 Discipline

In determining discipline, the Certifying Board will take into account such factors as it deems appropriate, which may include, but is not limited to:

- whether the offense was deliberate or inadvertent,
- what notice the Certified Paralegal had of the appropriate standard of conduct,

- the effect of the offense on the integrity of the Certified Paralegal program,
- the effect of the offense on the reputation of Certified Paralegal program,
- harm to the public, and
- whether the Certified Paralegal is a repeat offender.

5.4 Notice to Certified Paralegal

The Certifying Board will notify the Certified Paralegal in writing of its findings, conclusions and the discipline imposed within 30 days of the date of the Certifying Board's decision.

5.5 Recusal

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

5.6 Emergency Action

In extraordinary circumstances which pose a threat of irreparable harm to the Certified Paralegal program, the Certifying Board Chair may take such emergency action as is necessary to preserve the integrity of the Certified Paralegal program and protect the public before the Certifying Board has an opportunity to consider the matter. Such action may include barring an applicant from sitting for the Certified Paralegal examination. The Certifying Board will consider the matter de novo at the earliest opportunity.

5.7 Confidentiality

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

After concluding an investigation that results in disciplinary action, the Certifying Board will notify the certification 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 Certifying 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 Certified Paralegal, which summary may be published in an official publication of NALA for the guidance of the membership.

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

Appeals Process for Disciplinary Actions

1. Appeals

Within 30 days from receipt of notice of an adverse determination by the Certifying Board that a paralegal violated the certification program policies and/or rules as defined in the disciplinary policy, the paralegal may submit to the Certifying Board in writing a request for an appeal.

Upon receipt of a request for appeal, Disciplinary Appeal Committee consisting of at least three, but not more than five, individuals. This Disciplinary Appeal Committee may review one or more appeals, upon request of the Chair. No current members of the Certifying Board may serve on the Disciplinary Appeal Committee; further, no one with any personal involvement or conflict of interest may serve on the Disciplinary Appeal Committee. Members of the Disciplinary Appeal Committee may be reimbursed for reasonable expenses incurred in connection with the activities of the Committee.

The Disciplinary Appeal Committee may only review whether the determination by the Certifying Board of a violation was inappropriate because of:

- material errors of fact, or
- failure of the Certifying Board to conform to published criteria, policies, or procedures.

The Disciplinary Appeal Committee shall only consider facts and conditions occurring up to and including the time of the Certifying Board's determination. The appeal shall not include a hearing or any similar trial-type proceeding. Legal counsel is not expected to participate in the appeal process. The Certified Paralegal may consult legal counsel at his or her own expense. The Certifying Board and Disciplinary Appeal Committee may consult legal counsel.

The Disciplinary Appeal Committee conducts and completes the appeal within 90 days after receipt of the Request for an Appeal. Written appellate submissions and any reply submissions may be made by authorized representatives of the paralegal and of the Certifying Board. The Disciplinary Appeal Committee shall establish a schedule for such submissions. The Disciplinary Appeal Committee shall either affirm or overrule the determination of the Certifying Board. The Disciplinary Appeal Committee's decision, including a statement of the reasons for the decision, will be reported to the Certifying Board.

The Disciplinary Appeal Committee decision is binding upon the Certifying Board and the Certified Paralegal who is subject to the disciplinary action, and all other persons.

2. Resignation

If a Certified Paralegal who is the subject of a complaint voluntarily surrenders his or her certification at any time during the pendency of a complaint under these Procedures, the complaint is dismissed without any further action by the Certifying Board or an Appeal Committee established after an appeal. The entire record is sealed.

3. Confidentiality

Except as otherwise set forth here, the appeal committee will not disclose to anyone the identity of the Certified Paralegal, the charge, the results of the investigation, or the discipline imposed.

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