



## **The Certified Paralegal Program**

# **Disciplinary Procedures**

## **Section 6**

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The National Commission for Certifying Agencies (NCCA) has granted accreditation to the NALA Certified Paralegal program for demonstrating compliance with the NCCA Standards for the Accreditation of Certification Programs. Accreditation is effective through April 30, 2014. To maintain accreditation, NCCA requires annual reports of all certification programs. Re-accreditation is required every five years.

# Disciplinary Procedures

## Rules for Disciplinary Complaints

### 1. Introduction

#### *1.1 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 Certified Paralegal 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 Certified Paralegal program.

#### *1.2 Disciplinary Complaints*

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

1. Falsified information on application form.
2. Been convicted of the unauthorized practice of law since receiving the Certified Paralegal credential.
3. Failed to meet continuing legal education requirements as required by the Certifying Board.
4. Divulged the contents of any examination question.
5. Been convicted of a felony since receiving the Certified Paralegal credential.
6. Violated the NALA Code of Ethics and Professional Responsibility.
7. Violated the "Terms and Conditions of Testing."

### 2. Filing a Complaint

If a NALA member, Certified Paralegal, non-member paralegal, member of the public, an attorney or employer believes that a Certified Paralegal has been convicted of a felony or violated any of these standards, the individual should contact NALA Headquarters 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 in Policy #202.

### 4. Procedures for Investigating a Complaint

The Certifying Board's Procedures for Disciplinary Proceedings are published in their entirety below and are found in the Certifying Board's Policy Manual in Policy #305.

## Procedures for Disciplinary Proceedings

### 1. Scope and Purpose

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

- any charge of violation of any attestation signed in connection with application or recertification for the Certified Paralegal designation
- a charge of violation of the NALA Code of Ethics and Professional Responsibility
- 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 Board will follow in investigating the complaint.

This acknowledgement 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 Board and (b) whether the charge, if true, would constitute grounds for discipline.

The chair 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.

### 4. 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 members of the Certifying Board, to include a paralegal educator, an attorney, and a Certified Paralegal. Each member of the Investigation Committee shall have served a minimum of one year on the Certifying Board.

#### 4.1 Notice to Respondent

The Board will first notify each Certified Paralegal 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 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,
- describe the time within which the response should be submitted, and
- enclose a copy of these rules.

#### ***4.2 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 the Certified Paralegal to cooperate with such an investigation.

The Certified Paralegal 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.

#### ***4.3 Personal Appearance***

If in its sole discretion the 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 Presumption of Innocence***

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

### **5. Board Action**

The 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 Board will decide whether or not there has been a violation of any attestation signed in connection with application for the Certified Paralegal designation, specifically the NALA Code of Ethics and Professional Responsibility, or the terms and conditions of testing.

#### ***5.3 Discipline***

In determining 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 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, and
- whether the Certified Paralegal is a repeat offender.

#### ***5.4 Notice to Respondent***

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

#### ***5.5 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.

#### ***5.6 Emergency Action***

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

#### ***5.7 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 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 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, the Chair of the Certifying Board establishes a 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:

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

Only facts and conditions up to and including the time of the Certifying Board's determination as represented by facts known to the Certifying Board are considered during an appeal. 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 paralegal may consult legal counsel at the paralegal's 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. Submissions are made according to whatever schedule is reasonably established by the Disciplinary Appeal Committee. The decision of the Disciplinary Appeal Committee either affirms or overrules the determination of the Certifying Board. The decision of the Disciplinary Appeal Committee, including a statement of the reasons for the decision, is 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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