

ADMINISTRATIVE RULES
TITLE 000
DRAFT TEN - October 2007

CHAPTER 1. PURPOSES, DEFINITIONS, AND PROCEDURES

SUBCHAPTER 1. DEFINITIONS

000:1-1-1. Purpose

The purpose of this chapter is to describe the powers and purposes of the Board, the organization of the Board and administrative processes of the Board.

000:1-1-2. Definitions

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“**Act**” means the Oklahoma Licensed Interpreter Act, XX O.S. Sec. 000.0, et seq.

“**APA**” means Article I and/or Article II of the Oklahoma Administrative Procedures Act, 75 O.S. Sec. 250, et seq.

“**Applicant**” means any person who submits an application for licensure to the Board.

“**Board**” means the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing.

“**Executive Director**” means an individual selected by the Board to serve as Executive Director of the agency.

“**President**” means the President of the Board.

“**Secretary-Treasurer**” means the Secretary-Treasurer of the Board.

“**Vice-President**” means the Vice-President of the Board.

SUBCHAPTER 2. GENERAL PURPOSE AND PROCEDURES

000:1-2-1. Purpose of the Board

The purpose of the Board is to regulate the practice of interpreting in this State, as provided in the Act, and to implement, administer and enforce provisions of the Act.

000:1-2-2. Meetings of the Board

(a) All meetings of the Board shall be conducted in compliance with the Oklahoma Open Meeting Act, 25 O.S. Sec. 300, et seq. The Board shall provide advance public notice of the date, time and place of each meeting to be convened as well as provide an agenda of all matters to be considered.

(b) The Board shall hold regular meetings at least two (2) times per year at a place and time determined by the Board.

(c) The Board may convene special meetings, emergency meetings or continue or reconvene meetings as may be expedient, necessary or proper. Special meetings may be called by the President or any two members of the Board.

(d) The Board shall create written minutes of each meeting, which minutes shall be the official summary of all matters undertaken by the Board during each meeting and all actions of the Board. In the written minutes of an emergency meeting, the nature of the emergency and all actions which occurred at the meeting, including the reason or reasons for declaring the emergency meeting, shall be included.

(e) Copies of all minutes of the meetings of the Board, except for minutes which are confidential pursuant to the Open Records Act, may be obtained at the offices of the Board upon payment of copy fees.

000:1-2-3. Election of officers

The Board shall organize annually at the last meeting of each fiscal year by electing from among its members a President, Vice-President and Secretary-Treasurer.

000:1-2-4. Requests for information

- (a) The Board shall act at all times in accordance with the provisions of the Open Records Act, 51 O.S. Sec. 24A.1, et seq.
- (b) The public may review public records of the Board, or obtain copies thereof, by submitting written, telephonic, facsimile or electronic requests for such to the Executive Director or the Executive Director's designee. All public records of the Board shall be available for inspection and copying during normal business hours. A member of the Board's staff shall be available during normal business hours to receive and respond to requests for inspection and copying.
- (c) All records of the Board shall be public unless protected by a mandatory or permissive privilege of confidentiality. In the event a request is made for the release of a record subject to a permissive privilege of confidentiality, the Secretary-Treasurer shall determine whether or not disclosure is proper.

000:1-2-5. Forms and instructions

The Board shall cause to be created appropriate forms and instructions related to licensure, renewal of licenses, continuing education requirements and such other matters as deemed necessary by the Board. Forms and instructions shall be maintained at the offices of the Board and shall be available to any person upon request and the payment of appropriate copy fees. Forms and instructions shall be subject to revision as needed.

SUBCHAPTER 3. ADMINISTRATIVE PROCESSES

000:1-3-1. Purpose

The purpose of this Subchapter is to describe procedures for the submission, consideration and disposition of petitions requesting the promulgation, amendment or repeal of an administrative rule.

000:1-3-2. Copies of rules

An unofficial copy of any rule of the Board may be obtained at the offices of the Board. The public may obtain a copy of any petition for the promulgation, amendment or repeal of any rule of the Board upon request and the payment of appropriate copy fees.

000:1-3-3. Petitions for rulemaking

- (a) Any interested person may petition the Board in writing to promulgate, amend or repeal a rule.
- (b) The Board shall maintain a permanent docket concerning petitions for the promulgation, amendment or repeal of a rule. At such time a petition is filed, it shall be numbered, and the number of the petition, the date of filing, the designation of the action sought, and the name and address of the person who filed the petition shall be shown. The address shall include the city, state, street number or post office and zip code of the person who filed the petition.
- (c) The petition shall be filed with the Board in duplicate and shall be typewritten, except as may be waived by the Board upon written request.
- (d) The petition shall contain the following information as applicable and except as may be waived by the Board:
- (1) A statement of the legal authority and jurisdiction under which the petition is filed;
 - (2) The exact language of the proposed rule, amendment or repeal requested;
 - (3) A statement and legal references which show that the requested rule, amendment or repeal is not in conflict with any existing rule, ruling, order or opinion of the Board or any policy or provision of the APA or Act, or that any existing rule, ruling, order or opinion should be set aside or amended;
 - (4) A statement of the purpose of the requested rule, amendment or repeal and at least one example of fact situation to which the rule, amendment or repeal will apply; and
 - (5) The name and address of the person who requested the rule, amendment or repeal. In the event the request is made by an association or corporate body, the request shall also include the name and address of a contact person at said association or corporate body who is able to provide meaningful information related to the request.
- (e) The petition shall be submitted for review for a minimum period of 45 days.

- (f) The Board, on its own motion or upon the request of any other interested party, may require any petitioner to provide additional information, as may be specified by the Board, for use in the Board's consideration and disposition of the petition. The failure of a petitioner to provide additional requested information shall constitute grounds for the Board to take no action on a petition.
- (g) Upon completion of the study period, the Board, at a regular or special meeting, shall meet to consider the merits and proper disposition of the petition. Not less than ten (10) business days prior to such meeting, the Executive Director shall notify the petitioner of the date, time and place the petition shall be considered. The Board may request the petitioner's presence for the purpose of argument or the submission of other information related to the petition.
- (h) At the time and place designated for the public hearing, proponents and opponents of the proposed rulemaking action may be heard in the manner and order prescribed by the Board at that time.
- (i) At the conclusion of the public hearing, the Board shall render its decision on the petition. In the event the Board concurs with the action requested in the petition, it shall take prompt action, either by permanent promulgation procedures or emergency promulgation procedures, to implement its decision. The Board shall take emergency promulgation action only in the event a basis for emergency promulgation is patent.
- (j) Dissatisfied parties may request a rehearing or reconsideration within ten (10) business days from the date of the Board decision, in a manner allowed by the APA.

SUBCHAPTER 4. DECLARATORY RULING.

000:1-4-1. Purpose

This Subchapter describes procedures of the Board related to the filing and disposition of petitions for declaratory rulings.

000:1-4-2. Petitions for declaratory rulings

- (a) Any person who desires a ruling as to the applicability of any rule or order of the Board may file a petition with the Executive Director, in writing, for a declaratory ruling. A request for declaratory ruling shall provide a full, factual description of the scenario the petitioner requests to have ruled upon and the rule, rules or order pertinent to the request. The Board may request additional information from the petitioner.
- (b) The Board may request the assistance of the Attorney General prior to making a response to the petition.
- (c) At a regular or special meeting of the Board, the Board shall discuss and rule upon the petition. The ruling shall be reduced to writing and shall consist of:
- (1) a restatement of the question posed in the petition;
 - (2) an answer to the question posed in the petition; and
 - (3) the reason or reasons for the answer given.
- (d) A copy of the declaratory ruling shall be mailed to the petitioner.

000:1-4-3. Filing of declaratory rulings

The Board shall create a file that contains copies of all declaratory rulings issued by the Board. Any person may obtain a copy of any ruling so issued by the Board upon request and the payment of the appropriate copy fee.

CHAPTER 2. GENERAL PROVISIONS & LICENSURE OF INTERPRETERS

SUBCHAPTER 1. GENERAL PROVISIONS

000:2-1-1. Purpose

The rules in this chapter describe the procedures for licensing and renewal procedures of licensed interpreters, provisionally permitted interpreters, temporary licensees, and the rules of professional conduct for all.

SUBCHAPTER 2. LICENSURE OF INTERPRETERS

000:2-2-1. Application for licensure

The application for license to practice interpreting shall be on a form prescribed by the Board. The forms may be obtained upon request to the Executive Director.

000:2-2-2. Granting of license

(a) Where the information furnished on the application for the license, or for the renewal thereof, appears to establish all requirements for the grant thereof and there appears no reason to question its authenticity, the Board may issue the license, or renewal thereof, without a hearing. The Board reserves the authority to require any applicant to provide additional information or evidence to support an application for licensure. The Board, in its sound discretion, may require an applicant to appear before the Board to provide the Board such additional information or evidence.

(b) The following licenses may be issued by the Board:

(1) LICENSED

(a) A licensed interpreter shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the board.

(2) **PROVISIONAL** - For interpreters who have failed to obtain or failed to maintain a regular license to practice interpreting. Provisional permit may be issued for, but not limited to, the practice of interpreting while the application for full licensure is pending. Qualifications for Provisional permits shall be determined by the Board as specified in the Oklahoma Licensed Interpreter Act.

(3) **NON-RESIDENT TEMPORARY** - Out-of-state applicants who hold one or more certifications required for licensure and/or a comparable license or certification issued by another state recognized by the Board or as determined by the Board, may be issued a temporary license for no more than 14 consecutive days. The temporary licensee must sign an affidavit verifying they have read and will abide by the Oklahoma Licensed Interpreter Act and Administrative Rules, and must take and pass the Oklahoma Jurisprudence Examination.

000:2-2-3 Identification

All license holders shall display at all times on their person a current Board issued license identification specifying the type of license or permit and certification level, if any, during the delivery of interpreter services. In the event of video relay interpreting, the identification may be displayed in a manner viewable only to their supervisor.

000:2-2-4. Continuing education for renewal of license

(a) Before an active license is reissued, the licensee shall, on a form provided by the Board, certify that he or she has obtained one (1) continuing education unit in interpreting which shall be equal to ten (10) clock hours of study. CEUs may be obtained in the following categories:

(1) Professional Studies (Interpreting and/or language related) - at least .75 CEUs.

(2) General Studies - no more than .25 CEUs.

(b) Acceptable hours of credit will be determined as follows:

(1) QAST or RID CEU approved workshops, conferences, or trainings.

(2) Interpreting courses provided by approved Interpreting Training Programs recognized by the Oklahoma Board of Regents. One (1) semester credit hour shall be equal to 1.5 CEUs. One quarter credit hour shall be equal to one (1) CEU.

(c) Interpreters who are not able to earn CEUs through professional or general studies may submit a proposal for an Independent Study no more than once every two years. The process for Independent Study shall be as follows:

(1) Submission of Independent Study proposal to the Board three months prior to the due date including:

a. Description of activity.

b. Goals.

c. Manner in which the project will be submitted to the Board for review (written report, videotape, or other media).

(2) The Board secretary-treasurer will review the proposal and notify the applicant of acceptance or denial within ten business days.

(3) If approved, the Independent Study project must be completed and submitted to the Board by the close of business on the due date. Projects returned after the due date will be not accepted.

(d) Interpreters who receive a license to practice interpreting in the State of Oklahoma within one calendar year of initial licensing are exempt from reporting continuing education credits until the submission of the second renewal application after initial licensure.

(e) The Board may waive these requirements upon written request and a finding of good cause.

(f) Each licensee shall maintain verifiable documentary proof of attendance in a readily retrievable file of reported continuing education credit for random audit purposes. Documentary proof shall be maintained for a period of five years from the date of attendance.

(g) Only those courses, meetings or seminars previously approved and/or offered by Registry of Interpreters for the Deaf, Inc. (RID), or Oklahoma Registry of Interpreters for the Deaf, Inc. (OKRID), or Department of Rehabilitative Services Quality Assurance Screening Test (DRS QAST) program or any other state interpreting board or recognized state interpreting association, shall not require previous approval by the Board to qualify as continuing education units to be counted towards the fulfillment of the ten (10) required hours, so long as the material offered complies with the requirements of this section.

000:2-2-5. Continuation of license until final determination

(a) The licensing cycle shall run concurrently with the fiscal year beginning July 1 and ending June 30th.

(b) When a licensee has made timely and sufficient application for renewal of a license, the existing license shall not expire until the application for renewal has been finally determined, or in case of a determination adverse to the licensee, until the last day for seeking review of the Board's order or a later date fixed by order of the reviewing court. If a licensee does not make a timely and sufficient application for renewal of a license prior to the twenty-ninth day of August of each year in question, then said person's license shall be suspended.

000:2-2-6. Continuing education for reinstatement of license

(a) Before any license is reinstated, the licensee shall on a form provided by the Board, certify that he/she has obtained ten (10) hours of continuing education for each year the license has been inactive.

(b) The Board may waive all or part of the required continuing education hours and accept in lieu practice, training or education considered comparable by the Board.

000:2-2-7. Provisional Permit holders

Provisional permit may be granted to persons who do not fulfill the requirements for full licensure. When approved, Provisional permits will be valid for up to ninety (90) days. Extensions of Provisional permits may be approved at the Board's discretion. All Provisional permit holders may practice interpreting within certain limitations and restrictions as defined by the Board.

(1) **Qualifications.** Any applicant for a Provisional permit must fulfill the following criteria:

(A) Completion of application and payment of all fees.

(B) Successfully passing the Oklahoma Jurisprudence Exam.

(C) Prior to issuance of a Provisional permit, the Board shall consider but not be limited to evidence of suitability to practice as stated in the Oklahoma Licensed Interpreter Act.

(2) **Identification.** All Provisional permit holders shall identify themselves to the public as Provisional permit interpreters on all signs, business cards, letterheads, and other forms of communication or public representation. The words "Provisional permit" shall be clearly and completely spelled out and shall not be abbreviated. Each Provisional permit holder shall wear a name tag in one of the following forms, to-wit:

(a) Name, Provisional permit, Interpreter

(b) Name, Interpreter - Provisional permit

000:2-2-8. Fees

(a) Fee Schedule.

- (1) **Examination.** The following fees shall be assessed for examination of interpreters:
 - (A) Oklahoma State Jurisprudence Examination - \$25.00
- (2) **Licensure.** The following fees shall be assessed for licensure of interpreters:
 - (A) Annual renewal (prior to June 30) - \$50.00
 - (B) Reactivation fee (between July 1 and August 29) - \$100.00
 - (C) Reinstatement fee (August 30 or after) - \$250.00
 - (D) Licensure by Reciprocity - \$100.00
- (3) **Provisional permit.**
 - (A) Original permit - \$30.00
 - (B) Extension - \$50.00
- (4) **Licensure -Non-Resident Temporary.** The following fees shall be assessed for a non-resident temporary license:
 - (A) Non-Resident Temporary License (for a period of 14 days or less) - \$25 (includes fee for Jurisprudence Examination)
- (5) **Miscellaneous fees.** The following miscellaneous fees shall be assessed by the Board:
 - (A) Verification, duplication, or modification of license - \$25.00
 - (B) Certification of public records (per page) - \$1.00
 - (C) Duplication of public records (per page) - \$.25
 - (D) Transcript of public records recorded (per page) - Cost
 - (E) Issuance of subpoena - \$5.00
 - (F) Returned check processing fee - \$35.00
 - (G) Probation fees:
 - (i) \$50.00/month, unless otherwise modified by the Board or the Secretary/Treasurer
 - (ii) Investigation/Prosecution - actual cost incurred (Non-payment of investigation, prosecution or probation costs or fees within 30 days of billing may be grounds for imposition of additional sanctions by the Board).
 - (H) Declaratory ruling - \$300.00 plus court costs.

(b) Submission of fees. All fees are non-refundable.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

000:2-3-1. Disciplinary action

(a) The Board may revoke, suspend, probate or otherwise modify a license in accordance with the Oklahoma Licensed Interpreter Act. Any interpreter impaired by abuse of alcohol or other drugs, or found unable to practice interpreting with reasonable skill and safety may be the subject of disciplinary action. The Board may use its own discretion, or the advice of competent authorities, in approving a plan of action for each individual case. The Board may also monitor the interpreter to ensure compliance with the terms of the plan of action.

(b) In accordance with the Oklahoma Administrative Procedures Act and the Rules and Regulations of the Board, a program of therapy for the interpreter, against whom allegations of impairment have been made and properly filed with the Board, may be determined by mutual consent and voluntary submittal to Board jurisdiction before a license suspension or revocation hearing is held. In this case the hearing may be deferred pending the termination of treatment, at which time the hearing may be convened or canceled.

000:2-3-2 Unprofessional conduct

The following acts and/or omissions shall be considered unprofessional conduct and shall constitute grounds for disciplinary action by the Board. They shall include, but not be limited to:

- (1) failing to meet the minimum standards for the practice of interpreting as set forth by the NAD/RID Code of Professional Conduct, and/or the DRS QAST Code of Ethics.
- (2) engaging in conduct likely to deceive, defraud or harm the public or a demonstration of willful or careless disregard for the health, welfare or safety of a consumer. For the purposes of this

provision, acts of fraud herein shall include, but not be limited to:

- (A) claiming to have performed or charging for a service that was, in fact, not performed or given;
 - (B) claiming certification or recognition as a specialist which is untrue. Specialization shall be limited to those areas of specialization accepted by the Board;
 - (C) practicing interpreting under a false or assumed name or impersonating another practitioner;
 - (D) using a corporate or assumed name which is deceptive or misleading to the public;
 - (E) making a false, fraudulent or misleading statement of professional superiority in the practice of interpreting;
 - (F) using any form of advertisement which is false, deceptive or misleading;
 - (G) fraud or misrepresentation in applying for, procuring or renewing a license;
 - (H) the use of any false, fraudulent or deceptive statement in any document connected with the practice of interpreting;
- (3) practice under an expired, revoked or suspended Oklahoma interpreting license;
- (4) promoting, aiding, abetting or allowing the practice of interpreting by any unlicensed person, except as specifically authorized by the Act or rules of the Board.
- (5) failing or refusing to cooperate in an investigation by the Board where no privilege for such exists. For the purposes of this provision, such failure to cooperate shall include, but shall not be limited to:
- (A) failing or refusing to allow the Board or its investigator the ability to inspect records at reasonable hours, pursuant to an investigation by or on behalf of the Board and permitted by the Act or rules of the Board, or in accordance with other applicable State and/or Federal Statutes and regulations;
 - (B) failing or refusing to respond to reasonable inquiry from the Board or its investigator in the course of an investigation;
- (6) any disciplinary action taken against the licensee by any other licensing jurisdiction, professional association, interpreting specialty board, or government or regulatory agency, where the basis for such disciplinary action would be a basis for action by the Board;
- (7) failing to report to the Board within 30 days any disciplinary action taken against the licensee by any other licensing jurisdiction, professional association, interpreting specialty board, or government or regulatory agency, where the basis for such disciplinary action would be a basis for action by the Board;
- (8) except as appropriate in the course of a valid interpreter, consumer relationship, allowing any unlicensed person, as defined by XX O.S. XXXX, to control the professional judgment of the interpreter;
- (9) failing to display publicly on the person a current Board issued license identification during the delivery of interpreter services.
- (10) failing to practice interpreting with reasonable skill and safety. For the purpose of this provision, reasonable skill and safety shall refer to a level of care, skill and diligence in interpreting as is ordinarily used in the same or similar circumstances by average members of the profession in good standing in the community;
- (11) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's practice of interpreting;
- (12) improper preparation, recording, management and/or maintenance of interpreting records.

CHAPTER 3. INVESTIGATIONS AND DISCIPLINARY ACTIONS

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

000:3-1-1. Purpose

This Chapter sets forth the procedures of the Board used in the investigation of and hearings held for complaints and individual proceedings.

000:3-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“**Act**” means the Oklahoma Licensed Interpreter Act, XX O.S. Sec. XXX.X, et seq.

“**APA**” means Article I and/or Article II of the Oklahoma Administrative Procedures Act, 75 O.S. Sec. 250, et seq.

“**Board**” means the Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing.

“**Citizen complaint**,” means a written, oral, or signed statement of complaint from any person of a possible violation of the Act or rules of the Board and which is then available for investigation by the Board’s staff.

“**Complaint**” means a written statement of alleged violation of the Act and/or rules of the Board by a person licensed or certified by the Board and which is filed with the Secretary-Treasurer in anticipation of the issuance of a citation. This definition is distinct from citizen complaint.

“**Defendant**” means the person against whom an individual proceeding is initiated.

“**Executive Director**” means the Executive Director of the Board.

“**Hearing**” means the trial mechanism employed by the Board to provide due process to a defendant in an individual proceeding.

“**Hearing Examiner**” means an Oklahoma licensed attorney who assists and advises the Board regarding legal matters in the conduction of an individual proceeding.

“**Individual proceeding**” means the formal process by which the Board undertakes administrative disciplinary action against a person licensed or certified by the Board in accordance with the Act and the APA.

“**Plaintiff**” means the State Of Oklahoma ex rel. Oklahoma Board of Licensed Interpreters for the Deaf and Hard-of-Hearing.

“**Secretary-Treasurer**” means the Secretary-Treasurer of the Board.

“**Staff**” means employees of the Board or other persons specifically authorized to investigate complaints.

SUBCHAPTER 2. INVESTIGATIONS AND DISCIPLINARY ACTIONS

000:3-2-1. Investigations

Any person may file a citizen complaint with the Board in regard to any person licensed by the Board or any person otherwise under the Board’s statutory jurisdiction. Citizen complaints may be written, oral, or signed. The Staff may require complainants to reduce oral complaints to writing if such would facilitate review of the complaint. The Staff shall investigate all facially credible citizen complaints over which the Board would reasonably have jurisdiction. In addition, the Staff may refer complaints to other entities, such as the Oklahoma State Bureau of Investigation, Oklahoma Bureau of Narcotics and Dangerous Drugs, other law enforcement agency, or appropriate district attorney, for action when such other entity has jurisdiction.

000:3-2-2. Recusal of the Secretary-Treasurer

It is the determination of the Board that the Board may use the Secretary-Treasurer’s professional knowledge, training and experience to assist in the investigation of complaints presented to the Board. In the event the Secretary-Treasurer is unable to participate in the investigation, for any reason, the President of the Board may designate another Board member to assist in the investigation. The Secretary-Treasurer shall not participate in any other capacity in any hearing concerning a matter investigated by the agency for possible disciplinary action. No person designated to substitute for the Secretary-Treasurer in an investigation shall participate in any other capacity in an administrative proceeding. The President of the Board shall, as needed, request from the Office of the Governor the appointment of a pro-tempore Board member for any recused Board member.

000:3-2-3. Complaint and Citation

(a) An individual proceeding, whether propounded by the Board or by a citizen complainant shall be initiated by the filing of a sworn formal complaint with the President or Secretary/Treasurer of the Board. The formal complaint shall contain a brief statement setting forth the allegations which are the basis of the formal complaint and naming the person against whom the complaint is made. The formal complaint shall set forth all notice and hearing requirements of the APA.

(b) After a formal complaint has been filed in accordance with (a) of this section, the President, Secretary-Treasurer or his/her designee shall review the formal complaint and may issue a citation notifying the person named in the formal complaint of said filing and the date and place of the hearing.

(c) The decision whether to issue a citation shall be left to the discretion of the President, Secretary-Treasurer or his/her designee.

000:3-2-4. Emergency temporary suspension

The Secretary-Treasurer of the Board, or his/her designee, upon concurrence of the President or his/her designee, based upon clear and convincing evidence that an emergency exists for which the immediate suspension of a license is imperative to protect the public health, safety and welfare, or where a person under the jurisdiction of the Board is convicted of any felony, may conduct a hearing as contemplated by 75 O.S. §314 and §314.1 of the A.P.A. and XX O.S. §XXX of the Oklahoma Licensed Interpreter Act, to temporarily suspend the license of any person under the jurisdiction of the Board upon a showing of clear and convincing evidence of unprofessional conduct; provided, any such action temporarily suspending said license is taken simultaneously with proceedings for setting a formal hearing before the Board en banc to be held within (30) days after summary temporary suspension.

000:3-2-5. Hearing examiner

The Board may, upon the initiation of an individual proceeding, direct that a hearing examiner be used to hear matters in an individual proceeding as set forth in this section. The duties of the hearing examiner in an individual proceeding shall be:

- (1) to hear and rule upon discovery disputes;
- (2) to hear and rule upon motions in limine;
- (3) to review and rule upon motions to dismiss;
- (4) to hear and rule upon motions for continuance;
- (5) to hear and rule upon other preliminary motions; and
- (6) at the hearing:
 - (A) to mark and admit or deny exhibits;
 - (B) to rule upon objections or motions raised during the hearing; and
 - (C) to direct the orderly presentation of witnesses, exhibits and arguments.
- (7) After the hearing, settle the final order if necessary.

000:3-2-6. Response to a formal complaint

(a) The defendant shall file a written response to the formal complaint with the Board within twenty (20) days after service of the formal complaint. If a response is not filed, the defendant may be considered in default. At the hearing, in the event the defendant does not appear and has not responded to the formal complaint, the Board may accept the allegations set forth in the formal complaint as true. Further, the Board may impose disciplinary action against the defendant based upon the unanswered allegations in the formal complaint, which may include any sanction authorized by law, as appropriate, including revocation.

(b) The hearing examiner may, upon request, extend the time within which the defendant must respond to the complaint.

000:3-2-7. Prehearing conference

(a) Upon the filing of a formal complaint, the hearing examiner may schedule and conduct a prehearing conference. Attendance at the conference by the prosecuting attorney and defendant or defendant's

attorney is mandatory. The prehearing conference shall be scheduled approximately twenty (20) days after the initiation of the individual proceeding.

(b) Upon the date of the scheduled prehearing conference, there shall be determined deadline dates for the exchange of witness and exhibit lists, discovery cut-off, filing of dispositive motions, and the hearing date for the individual proceeding, all memorialized in an executed scheduling order.

(c) Continuances are disfavored by the Board. If either party seeks a continuance, the party shall specify to the hearing examiner the basis for such motion at any time prior to the hearing. The hearing examiner may confer with both parties by telephonic conference call and then rule upon the motion. If a party requests a continuance and the other party does not object, a continuance may be granted without further review.

(d) The parties are required to confer to formulate a statement of stipulations in the case. The Board prefers stipulations to be reached by the close of discovery, with a written statement of stipulations to be filed in the matter within five (5) days of the close of discovery. In no event shall the parties fail to provide a statement of stipulations later than five (5) days prior to the hearing date, if applicable.

000:3-2-8. Discovery

Discovery shall be limited to those procedures authorized by the APA. In the event either party seeks to expand the scope of discovery to procedures other than those authorized by the APA, such shall be allowed only upon the agreement of the other party or where necessary to preserve the interests of justice.

000:3-2-9. Motions prior to hearing

Every motion in the individual proceeding shall be filed with the Board and heard by the hearing examiner. The hearing examiner may schedule oral argument on the motion or may rule based upon written argument only, at the discretion of the hearing examiner. The ruling of the hearing examiner shall be reduced to writing and may be appealed to the Board prior to the hearing. In the event the appeal of such a ruling is set for the day of the hearing, it shall be presented to the Board prior to the hearing on the merits.

000:3-2-10. Procedure of the hearing

(a) Immediately prior to calling the first case at a meeting of the Board during which hearings shall be held, the President or the hearing examiner at the designation of the President shall conduct a docket call, in which cases to be heard by the Board shall be scheduled. Scheduling may take into consideration factors such as the anticipated length of a hearing, whether a matter is contested or uncontested, and, if necessary, special requirements of the parties or witnesses.

(b) Each hearing shall be conducted in an orderly manner and shall be presided over by the President. In the event of the absence of the President, the Vice-President or designee of the President shall preside.

(c) The burden of proof shall be upon the plaintiff, State of Oklahoma ex rel. Oklahoma Board of Licensed Interpreters by clear and convincing evidence.

(d) Rules of evidence shall be those authorized by the APA.

000:3-2-11. Failure to appear

Any defendant who fails to appear as directed, after first having received proper notice, shall be deemed to have waived his or her right to present a defense to the charges alleged in the complaint. The Board may accept the allegation of the complaint as true and correct as alleged. Thereupon, the Board may vote to take disciplinary action upon the allegation of the complaint, as appropriate to the nature of the allegations.

000:3-2-12. Opening statements and closing arguments

The Board will hear, at the request of either party in a hearing, opening statements and/or closing arguments. Parties are required to keep statements and arguments as brief as possible. Each party shall be entitled to five (5) minutes for opening statement and ten (10) minutes for closing arguments. The defendant may present his or her opening statement after the plaintiff rests its case and prior to the presentation of the defense.

000:3-2-13. Deliberations

Following the conclusion of the presentation of evidence and closing arguments, if any, the Board may engage in deliberations of the matter. The Board may, if it so votes and has given proper notice under the Open Meeting Act, enter executive session for deliberations. The Board shall return to open session to vote and render a decision.

000:3-2-14. Subpoenas

(a) Subpoenas to compel the attendance of witnesses, for the furnishing of information required by either party in the case, and/or for the production of evidence or records of any kind allowable by the APA may be issued by the Executive Director, the Hearing Examiner, or upon request by the attorney for either party. Subpoenas shall be served, and a return made, in any manner prescribed by general civil law.

(b) The cost of any subpoena issued by the Board shall be borne by the party which sought to obtain the subpoena. In the event a sanction is imposed by the Board following a hearing, the costs of subpoenas issued may be included in the costs imposed against the defendant.

000:3-2-15. Answer to subpoena

Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation or to answer a question properly posed, the Board may authorize the initiation of judicial proceedings under the laws of the State for an order to compel compliance with the subpoena or the giving of testimony. The hearing shall proceed while such action is pending so far as is possible, but the Board or the Hearing Examiner, at any time, may continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceeding.

000:3-2-16. Hearing record

(a) A record of the hearing, by means of tape and video recording, shall be made of all hearings conducted by the Board. The record of the proceeding shall not be transcribed or copied except upon written application of the party seeking transcription and the payment of a deposit sufficient to cover the costs of transcription or duplication. The Staff shall then make appropriate arrangements with a certified court reporter to transcribe the hearing as well as with audio-visual experts to video record the hearing.

(b) A defendant may, at his or her own expense, arrange for a record of the hearing to be made by a court reporter or audio-visual expert.

000:3-2-17. Final orders

Upon completion of the hearing and the rendering of a decision by the Board, the prevailing party shall reduce the Board's decision to writing, obtain the signature of the opposing party or opposing party's counsel, and provide the order to the Board for the Signature of the President or designee. The order shall contain Findings of Fact, Conclusions of Law, separately stated, as well as the order of the Board.

000:3-2-18. Petitions for rehearing

(a) A petition for rehearing is not required before an appeal may be filed in accordance with the APA. A petition for rehearing, reopening or reconsideration of a final order may be filed with the Board within ten (10) days from the entry of the order. The petition for rehearing must be signed by the party or the party's counsel and must set forth with particularity the grounds upon which it is based. A petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time.

(b) The Board shall not conduct a rehearing of a decision more than one time and shall limit the reconsideration of its decision on a rehearing to the findings of fact, conclusions of law, and imposition of terms, sanctions or other directions as set forth in the order.

SUBCHAPTER 3. COSTS

000:3-3-1. Costs

In the event disciplinary action is imposed against the defendant of an individual proceeding, the Board may require the defendant to reimburse the Board for its actual costs in the investigation and prosecution of the disciplinary action. Such costs shall include, but not be limited to:

- (1) staff time and expenses
- (2) salary expenses
- (3) travel expenses
- (4) witness fees and expenses
- (5) attorney fees and expenses
- (6) long distance telephone charges
- (7) copy costs
- (8) court reporter fees, if applicable

000:3-3-2. Deferral of payment of fees

All requests for a deferral of fee payments as a result of financial hardship shall be made in writing to the Board by the requesting party. The requester shall specify the nature of his/her inability to make timely payment. All requests for deferral of payment shall include copies of the requester's most recent state and federal income tax returns. The Board shall act upon the request at a meeting of the Board. State and federal income tax forms submitted to the Board in support of a request hereunder shall be kept confidential by the Board.

SUBCHAPTER 4. OTHER DISCIPLINARY MECHANISMS

000:3-4-1. Voluntary submission to jurisdiction

In lieu of taking a complaint to administrative hearing, the Board may accept a voluntary submission to jurisdiction entered into by the plaintiff and the defendant. The submission may be made to resolve a complaint pending before the Board on any matter in which the parties can reach an agreement. The voluntary submission shall not be binding on the Board or defendant until voted upon and approved by the Board at a meeting of the Board. Once approved by the Board, the voluntary submission shall be binding upon the defendant as though rendered following an administrative hearing.

000:3-4-2. Letters of concern

- (a) The Secretary-Treasurer is hereby authorized, in the exercise of his/her sound discretion, to issue a letter of concern to a licensee of the Board whose conduct does not warrant formal disciplinary action by the Board, but whose action does warrant written notice to the licensee that the licensee's action raises a serious question about a violation of the Act or rules of the Board.
- (b) A letter of concern may be used in a subsequent disciplinary action as appropriate.
- (c) Letters of concern shall be confidential.

CHAPTER 4. FIELD CITATION PENALTIES

000:4-1-1. Classifications and administrative penalties

(a) Each field citation issued pursuant to The Oklahoma Licensed Interpreter Act and/or rules of the Board shall be classified according to the nature of the violation as set out below. The field citation shall indicate the classification on its face.

- (1) A Class "A" violation shall be a violation which the executive director of the Board has determined meets the following criteria:
 - (A) It is the first violation by a person who while engaged in and/or aiding and abetting in the practice of interpreting has violated the Oklahoma Licensed Interpreter Act or the rules of the Board; and

- (B) The probable cause committee does not recommend the filing of a formal Complaint and Citation to be adjudicated by the Board en banc.
- (2) A Class “B” violation shall be a violation which the executive director has determined meets the following criteria:
 - (A) It is the second or subsequent violation by a person who while engaged in and/or aiding and abetting in the practice of interpreting has violated the Oklahoma Licensed Interpreter Act or the rules of the Board; and
 - (B) The violation was committed by a person who has had one or more previous field citations preceding the instant violation, without regard to whether the previous Citation(s) has become final; and
 - (C) The probable cause committee does not recommend the filing of a formal Complaint and Citation to be adjudicated by the Board en banc.
- (b) In recommending an administrative penalty or Board hearing, the following criteria shall be considered by the probable cause committee:
 - (1) The good or bad faith exhibited by the cited person;
 - (2) The nature and severity of the violation;
 - (3) Evidence that the violation was willful;
 - (4) Any history of violations of the same or similar nature;
 - (5) The extent to which the cited person has cooperated with the Board’s investigation;
 - (6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by the violation; and
 - (7) Such other matters as justice may require.
- (c) The specific administrative penalties shall be as follows:
 - (1) A Class “A” violation shall be subject to an administrative penalty not to exceed \$500.00;
 - (2) A Class “B” violation shall be subject to an administrative penalty not to exceed \$5,000.00;
 - (3) The administrative penalties required by this paragraph shall not be due and payable unless and until the previous action(s) has been adjudicated with a finding or penalty against the cited person;
 - (4) In the event that a predicate field citation(s) is adjudicated in favor of the cited person, thereby leaving no recidivist basis, any pending Class “B” field citation(s) shall revert to a Class “A” status.