



6450 S Lewis Ave, Suite 250 | Tulsa, OK 74136 | PH: 918-587-6828 | FAX: 918-582-6772 | www.nala.org

Disciplinary Procedures



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NALA'S CERTIFYING BOARD

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1. Rules for Disciplinary Complaints

1.1. Scope and Purpose

Misconduct and dishonesty are not tolerated in the Certified Paralegal Program. NALA Certification Candidates and NALA Certified Paralegals are expected to conduct themselves with honesty and integrity at all times.

These rules establish the procedures that the Certifying Board will follow to investigate 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. Cause for Disciplinary Action

Disciplinary action may be taken against an Examination Candidate or a Certified Paralegal if it is found that either has committed any of the following:

- falsified information on any document submitted to the Certifying Board;
- been disciplined for 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;
- failed to notify NALA of updates to their application for the Certified Paralegal credential;
- violated the NALA Code of Ethics and Professional Responsibility;
- violated the Certified Paralegal Program Handbook;
- 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.

In addition, an Examination Candidate is also subject to disciplinary action if the Candidate is found to have committed either of the following:

- unfairly gained exam information by using unauthorized materials or websites during the examination; or
- provided any assistance to another candidate at any time during the exam preparation or delivery period.

Evidence of a violation of the specific Examination Candidate violations may include visual observation during the test period or other tangible evidence.

1.3. Filing a Complaint

Individuals, including NALA staff, should file a written complaint with NALA if they believe that an Examination Candidate or Certified Paralegal has been convicted of a felony or violated any of NALA's standards, such as:

- falsified information on any document submitted to the Certifying Board;
- been disciplined for 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;
- failed to notify NALA of updates to their application for the Certified Paralegal credential;
- violated the NALA Code of Ethics and Professional Responsibility;
- violated the testing rules as posted on NALA's website; or

- engaged in any other conduct determined by a majority vote of the Certifying Board to be unethical or unprofessional.

Filed complaints should be marked “Confidential”, and the Complainant should ensure their current contact information (such as mailing and email addresses as well as telephone number) is included prior to submission. Individuals should include documents that substantiate all claims of criminal conviction(s), violative conduct or improper behavior.

Written complaints should be submitted to:

NALA – The Paralegal Association
6450 S. Lewis Ave., Ste. 250
Tulsa, OK 74136

or via email to mdrew@nala.org

or through NALA’s website at <https://nala.org/2015/disciplinary-rules/>.

Questions concerning submitting a written complaint should be directed to Melody Drew, Certification Manager at 918-587-6828 or mdrew@nala.org.

2. Procedures for Disciplinary Proceedings

2.1. Scope and Purpose

For conducting disciplinary proceedings, the Certifying Board will follow the procedures described in this Section. The purpose of these procedures is to ensure that such charges are investigated fully and resolved fairly, consistent with the integrity of the Certified Paralegal program. Accordingly, the Certifying Board has set forth specific procedures for:

- Emergency Action;
- Responding to a Complaint;
- Addressing Threshold Inquiries;
- Conducting the Investigation;
- Concluding the Investigation; and
- Maintaining Confidentiality.

2.2. Emergency Action

In extraordinary circumstances that pose a threat of irreparable harm to the Certified Paralegal program and to protect the public, the Certifying Board Chair may take such emergency action as deemed necessary 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 until an investigation has been concluded. The Certifying Board will consider the matter *de novo* at the earliest opportunity or may consider an expedited investigation, whichever seems most appropriate at the time.

2.3. Response to a Complaint

Upon receiving a copy of the written complaint, the NALA Certification Manager will notify the Certifying Board Chair within two (2) business days, absent extenuating circumstances (*e.g.*, making a determination regarding an anonymity request). The NALA Certification Manager should acknowledge receipt by sending a letter to the individual who filed the complaint (the “Complainant”). The letter shall attach a copy of the current Disciplinary Procedures and describe the process in which the Certifying Board will investigate the complaint.

Further, the acknowledgment will state the Certified Paralegal or Examination Candidate is entitled to:

- Know the Complainant's identity, if it is not subject to a request for anonymity;
- Know the alleged violative conduct; and
- Review the substantiating documents.

2.4. Requests for Anonymity

Upon receiving an acknowledgment letter from the Certifying Board, a Complainant has the option to request anonymity in the disciplinary proceeding. Complainants should submit all written requests for anonymity in the same manner in which the written complaint was filed. Written requests for anonymity should address the following:

- Why do you want to remain anonymous?
- From whom do you want to remain anonymous?
- Do certain documents or information link the alleged violative conduct directly to you? If yes, what documents or information? Explain how so.

The Certifying Board will send an acknowledgment letter to the Complainant within ten (10) days of receiving the request for anonymity. The Certifying Board will review the request for anonymity and decide whether to grant it. There is a presumption against granting anonymity, but the Disciplinary Committee considers the following when determining whether to grant the request:

- The alleged hardship presented to the Complainant; and
- The potential impact to the investigation including, but not limited to, the impact to the public and Certified Paralegal program if the request for anonymity is granted.

The Certifying Board may request additional information from the Complainant as necessary.

The Certifying Board will provide prompt written notification to the Complainant about whether the request for anonymity was granted or denied.

2.5. Threshold Inquiry

When the NALA Certification Manager receives complaint allegations, they will report the complaint to the Certifying Board Chair. The Certifying Board Chair will promptly investigate to determine whether the matter falls within the scope of Section 1.2 of these Disciplinary Procedures.

The Certifying Board Chair will then notify the Disciplinary Committee of the complaint and the results of the threshold inquiry. If a majority of the Disciplinary Committee disagrees with the Certifying Board Chair's threshold inquiry determination (*i.e.*, that the matter falls outside the scope of Section 1.2 of this Disciplinary Procedures), then the matter shall be closed. Upon determining that the matter shall be closed, the Certifying Board Chair will provide notification of the determination to the NALA Certification Manager. The NALA Certification Manager will then provide notification to the Complainant.

2.6. Investigation

If the charge satisfies the threshold inquiry, the Certifying Board shall investigate the charge. The Certifying Board may act by committee, provided that the Chair shall be a member of the committee. The Disciplinary Committee shall be composed of a minimum of four members of the Certifying Board, to include a paralegal educator or attorney, the Public Member, and two (2) Certified Paralegals. Each member of the Disciplinary Committee shall have served a minimum of one year on the Certifying Board. Upon completing an investigation as outlined in this policy, the Disciplinary Committee shall make recommendations for disciplinary action to the Certifying Board.

2.7. 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.

2.8. Notice to Certified Paralegal and Examination Candidate

The Certifying Board will first notify, in writing, the Examination Candidate or Certified Paralegal who may be subject to discipline. Written notification will be sent by certified mail and email to the last known addresses and will:

- describe the complaint and specify the alleged violative conduct;
- notify the Examination Candidate or Certified Paralegal of their right to submit a written response, making a full and complete disclosure of all information pertinent to the complaint within the knowledge of the Examination Candidate or Certified Paralegal; and
- state the time within which the response should be submitted (*i.e.*, within fourteen (14) days of the date of the written notification letter); and
- enclose a copy of the Certifying Board's Disciplinary Procedures.

2.9. Method of Investigation

After providing written notification to the Certified Paralegal as described in Section 2.8, the Certifying Board will then conduct the investigation by such methods as it considers necessary or appropriate, including reviewing publicly available materials, conducting personal interviews, and reviewing documents and information submitted by interested individuals.

2.10. Personal Appearance

The Certifying Board may, in its sole discretion, offer the Examination Candidate or Certified Paralegal an opportunity to appear and present evidence and argument in person if the Certifying Board believes that a personal appearance would materially aid the investigation. The Certifying Board shall determine the time and place and set such rules as it deems appropriate in the circumstances. The Examination Candidate or Certified Paralegal will bear their own costs of attendance.

2.11. No Adverse Inference

No adverse inference shall be drawn from the Examination Candidate or Certified Paralegal's failure or refusal to cooperate with the investigation.

2.12. Board Action

The Certifying Board will consider all evidence gathered during the investigation to determine the disciplinary action. The Disciplinary Committee may choose to schedule a special meeting with the Certifying Board at-large to present its disciplinary action recommendation.

2.13. Findings of Fact

The Certifying Board will identify the material facts identified within the investigation, making such inferences and credibility determinations as necessary.

2.14. Conclusions

Based on its findings, the Certifying Board will decide whether:

- any document submitted to the Certifying Board was falsified;
- any information submitted to the Certifying Board was knowingly false or misleading;
- the Examination Candidate or Certified Paralegal knowingly or should have known such actions would have obstructed the Certifying Board’s investigation; and
- the evidence substantiated the alleged violative conduct including, without limitation, the Examination Candidate or Certified Paralegal violated the NALA Code of Ethics and Professional Responsibility, the terms and conditions of testing or one of the enumerated complaint types in Section 1.2.

The Certifying Board will memorialize its conclusions in a memorandum, which will be archived by NALA staff (*i.e.*, the Certification Manager) and retained for a period as determined by Board. The memorandum shall be marked “Confidential” and “Internal Use Only – For NALA Certifying Board”¹. The memorandum must remain confidential as further discussed within Section 2.18, Confidentiality.

The Certifying Board Chair will distribute a copy of the memorandum to the NALA Certification Manager within two (2) business days of making a determination, absent extenuating circumstances.

2.15. Discipline

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

- Whether the offense was deliberate or inadvertent;
- What notice the Examination Candidate or 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 Examination Candidate or Certified Paralegal is a repeat offender.

In addition, the Examination Candidate may be subject to the following:

- an invalidation of all examination sections, with no refund of fees and no scores reported;
- a prohibition on taking any section of the Certified Paralegal examination for a period of not less than two years from the date of the violation;
- a requirement that all sections of the examination be taken or retaken if the examinee is permitted to re-test; and
- as a condition of re-testing, the Certifying Board may require the candidate to complete a specific number of hours of approved Legal Ethics CLE. The Examination Candidate must provide written documentation of the completion of said CLE hours.

¹ There are limited circumstances in which such documents will be distributed outside the Certifying Board. Such instances shall be documented by the Certifying Board. When the Certifying Board externally distributes confidential materials, the Chair must document, in writing, the disclosure to NALA’s Certification Manager who will maintain the document with other records related to the investigation. To the extent possible, the Chair should include tracking numbers for all external mailings.

2.16. Notice to Certified Paralegal and Examination Candidate

The Certifying Board shall provide written notification of its findings, conclusions and imposed discipline to the Examination Candidate or Certified Paralegal within 30 days of the date of the Certifying Board's decision. Written notification will be sent by certified mail and email to the last known addresses.

2.17. 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 NALA's CEO and the Certification Manager of the identity of the individual and the discipline imposed to the minimum extent necessary to implement the discipline.

Without revealing the name of the Examination Candidate or Certified Paralegal or the Complainant, the Certifying Board may also prepare an annual summary of the number of Examination Candidates or Certified Paralegals disciplined over a set period. The summary may be published in an official publication of NALA (*e.g.*, the NALA website or magazine) as guidance for the membership.

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

3. Procedures for Disciplinary Action Appeals

3.1. Appeals

Within 30 days from receipt of notice of an adverse determination by the Certifying Board that an Examination Candidate or Certified Paralegal violated the NALA Code of Ethics and Professional Responsibility, the terms and conditions of testing or one of the enumerated complaint types set forth in Section 1.2, the Examination Candidate or Certified Paralegal may submit a written request for an appeal to the Certifying Board ("Request for Appeal"), as prescribed in the notification letter.

3.2. Disciplinary Appeal Committee

The Disciplinary Appeal Committee shall consist of at least three, but not more than five, individuals appointed by the CEO. The process by which the CEO selects individuals for the Disciplinary Appeal Committee is not (1) set or influenced by the Disciplinary Committee; and (2) prescribed within these Disciplinary Procedures. This Disciplinary Appeal Committee may review one or more appeals, upon request of the CEO. 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.

3.3. Scope of Review

The Disciplinary Appeal Committee shall only review whether the Certifying Board's determination was inappropriate because of:

- material errors of fact; or
- failure 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. However, the Examination Candidate or Certified Paralegal may consult legal counsel at their own expense. Moreover, the Certifying Board and Disciplinary Appeal Committee may consult legal counsel.

3.4. Timeline

The Disciplinary Appeal Committee conducts and completes the appeal within 90 days after receipt of the Request for Appeal. Written appellate submissions and reply submissions may be made by authorized representatives of the paralegal and the Certifying Board. The Disciplinary Appeal Committee shall establish a schedule for such submissions.

3.5. Decision

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. All records relating to the Disciplinary Appeal Committee's review shall be submitted to the Certification Manager for filing with the investigative record.

The Disciplinary Appeal Committee's decision is binding upon the Certifying Board and the Examination Candidate or Certified Paralegal who is subject to the disciplinary action as well as all other interested persons.

3.6. Notification to Certified Paralegal and Examination Candidate

The Certifying Board Chair shall notify, in writing, the Examination Candidate or Certified Paralegal of the Disciplinary Appeal Committee's decision. Written notification will be sent by certified mail and emailed to the last known addresses.

3.7. Surrendering Certification

If an Examination Candidate or Certified Paralegal, who is the subject of a complaint, voluntarily surrenders their certification application or certification at any time during the pendency of a complaint under these Disciplinary Procedures, then the complaint shall be dismissed without any further action by the Certifying Board or the Disciplinary Appeal Committee. The entire record is sealed.

3.8. Confidentiality

See above, Section 2.17, Confidentiality. Except as otherwise set forth here, the Disciplinary Appeal Committee will not disclose to anyone the identity of the Examination Candidate or Certified Paralegal or the Complainant, the alleged violative conduct, the results of the investigation or the imposed discipline, if any.

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