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## NCRA Policies and Procedures

### Introduction to Policies and Procedures Manual

The NCRA Board of Directors supports and advocates transparency in its governance activities, consistency in its exercise of governance duties, and continuity and efficiency in the operations of the association. In order to promote good business practices and responsible governance, it has created this Policy and Procedures Manual and makes it available to the membership on the NCRA website and in PDF format.

### Policies and Procedures

A policy statement presents the position, thinking or philosophy that governs actions on a particular subject. Policies are meant to answer the general questions "what" and "why."

Where policy is dictated by the NCRA Constitution and Bylaws, reference to the applicable language is provided. No Policy or Procedure may contravene the law of the District of Columbia, NCRA Articles of Incorporation, NCRA Constitution and Bylaws, and Robert's Rules of Order *Newly Revised* (RONR), in that order.

Policy wording is intentionally formal, broad and general in terms. At the same time, it ideally should be concise, brief and easily grasped.

A procedure statement provides more detailed or specific instruction on areas addressed in policy. A procedure defines and specifies the necessary steps for accomplishing a given task. Procedures are meant to answer the questions "how" and "when."

Procedures should be worded in clear, precise, and specific terms to provide the reader with all the necessary details and information to make a sound decision in a particular situation, consistent with prior actions and policy. Wording may be more informal than in policy statements, with the emphasis on clarity and complete coverage of the subject. As such, procedure statements are often longer than the policy statement with which they are associated.

### Appendices

Specialized policies and extensive, detailed procedures are documented in other sources. (For example: The NCRA Code of Professional Ethics, with its supporting "General Guidelines," "Complaint Procedures," and "Public Advisory Opinions," and the CASE *General Requirements and Minimum Standards (GRMS)* manual.) These authorities will be included as appendices to this Policy and Procedures Manual and remain subject to approval by the Board of Directors.

### Revision and Maintenance

The Policies and Procedures Committee shall review a minimum of one-third of the Policies and Procedures Manual annually and reaffirm, amend, or rescind each item contained therein. Upon the Policies and Procedures Committee's completion of its task, the Committee shall present its recommendations to the NCRA Board of Directors for final approval. Under authority granted by Article XIX, Section 1(a) of the NCRA Constitution and Bylaws, "The Board of Directors shall be the final authority on the interpretation of the Constitution and Bylaws." The Board has final authority to determine whether a particular Policy or Procedure is in conflict with the Constitution and Bylaws and

the obligation to correct any Policy or Procedure to conform it to the requirements of the bylaws. The draft of the Policies and Procedures with changes incorporated will be sent to the Board for final approval.

NCRA executive staff shall be charged with maintaining a master copy of this Policies and Procedures Manual and its appendices, reflecting any changes or additions made as a result of Board or membership action within two weeks of any change.

## **Note on Custom**

A particular practice may sometimes come to be followed as a matter of established custom so that it is treated practically as if it were prescribed by a rule. If there is no contrary provision in RONR or written rules of NCRA, the established custom should be adhered to unless the Board of Directors, by a majority vote, agrees in a particular instance to do otherwise. However, if a customary practice is or becomes in conflict with RONR or any written rule, and a Point of Order citing the conflict is raised at any time, the custom falls to the ground, and the conflicting provision in RONR or written rule must thereafter be followed. If it is then desired to follow the former practice, a special rule of order (or, in appropriate circumstances, a standing rule or a bylaw provision) can be added or amended.

## Contents

<b>SECTION 1: MEMBERSHIP.....</b>	<b>6</b>
Advertising of Membership and/or Certifications Held .....	6
Dues .....	6
Logo and Certification Use Policy .....	7
Retired Membership.....	10
<b>SECTION 2: CODE OF PROFESSIONAL ETHICS AND CONDUCT.....</b>	<b>10</b>
NCRA Code of Professional Ethics.....	10
Advisory Opinion Procedures .....	10
Captioners Code of Professional Ethics .....	11
Certified Legal Video Specialist Code of Professional Ethics .....	11
Ethics First.....	11
Advertising .....	11
<b>SECTION 3: ASSOCIATION GOVERNANCE.....</b>	<b>11</b>
Advertising and Sponsorship Policy .....	11
Advertising Complaint Process: Alleged Code of Professional Ethics (COPE) Violations.....	12
Vendors/Suppliers Advertising .....	15
Election Procedures .....	15
Endorsement Activities & Guidelines for Campaigning While on Rep Assignments.....	18
NCRA Business Summit.....	18
Fundraising Policy .....	18
JCR Purpose Statement.....	19
Mailing List Policy and Rental Agreement .....	19
Product Endorsement Policy.....	19
<b>SECTION 4: BOARD OF DIRECTORS.....</b>	<b>20</b>
Board of Directors Standards of Ethical Conduct .....	20
Board Standards of Ethical Conduct Complaint Procedures .....	21
Ownership of Materials and Information .....	23
Board Speaking Engagements Other Than Delegated Representative Assignments .....	23
Listserv Policy and Procedures.....	23
Officer/Director Term Transition .....	23
Executive Committee.....	24
<b>SECTION 5: COMMITTEES.....</b>	<b>24</b>
Authority .....	24

Standing Committees..... 24

    Council of the Academy of Professional Reporters ..... 24

    Distinguished Service Award Committee ..... 25

    Nominating Committee ..... 26

Executive Director Performance Evaluation and Compensation Committee ..... 26

**SECTION 6: LEGAL REQUIREMENTS ..... 26**

    Antitrust Policy..... 26

    Assumption of Risk and Waiver of Liability..... 28

    Confidentiality..... 28

    Conflict of Interest Policy and Disclosure Statement ..... 28

    Conflict of Interest for Selection Committees ..... 30

    Guidelines for NCRA Listserv and NCRA-labeled Social Media Platform Etiquette ..... 31

    Illegal Amendments ..... 35

    Ownership of Materials and Information ..... 35

**SECTION 7: FINANCE..... 35**

    Contracts ..... 35

    Corporate Credit Cards ..... 36

    Finance Committee..... 36

    Reimbursement of Member Speakers..... 36

    Travel Expense Reimbursement Policy..... 36

    Contest Chairs Expenses ..... 37

    Reserves: Protecting Reserves ..... 37

**SECTION 8: CERTIFICATIONS AND CONTINUING EDUCATION ..... 37**

    CEU Extension Policy..... 37

    Exam Retention..... 37

    Testing..... 37

        Procedures for Cheating on Certification Exams ..... 38

**SECTION 9: AFFILIATED UNITS..... 39**

    NCSA Guidelines..... 39

    Criteria for Considering Applications for Affiliation in States Where Multiple Affiliated Units are Permissible<sup>42</sup>

    Partnerships with Affiliated Units ..... 43

    Services Available to Affiliated and Non-Affiliated Units from NCRA..... 43

**SECTION 10: OTHER..... 44**

**SECTION 11: POSITION STATEMENTS ..... 44**

- Attorney Responsibility for the Court Reporting Fees..... 44
- Communication Access Realtime Translation (CART)..... 44
  - Providing Quality CART Services ..... 44
  - Misidentification of CART Services ..... 44
- Ensuring the Confidentiality and Security of Outsourced Transcription ..... 45
- Third-Party Contracting ..... 45
  - Disclosure Obligations ..... 45
  - Policy in Support of Enactment of Anti-contracting Laws or Regulations ..... 45
- Affirming the Role of and Need for the Official Reporter..... 46
- Transcript Repositories ..... 46
- NCRA Statement re Electronic Filing of Court Documents and Transcripts ..... 47
- Certified Legal Video Specialist ..... 48
- Anonymous Communications..... 48

**APPENDIX..... 49**

## SECTION 1: MEMBERSHIP

### Advertising of Membership and/or Certifications Held

#### *Claims of NCRA Membership in Advertisements*

1. Membership in NCRA is on an individual basis. Any NCRA Member in good standing may advertise or represent that such individual is a Member of the National Court Reporters Association.
2. Any Member in good standing may advertise or represent the fact of NCRA Membership on such Member's advertising, business cards, letterhead, brochures, website, social media pages, and other materials solely to denote the individual's Membership in NCRA. Any other advertisement or representation of Membership is prohibited, except to the extent expressly permitted by the Board of Directors. A Member may not use advertisement or representation of Membership as an expression of NCRA's views, or its endorsement or approval of a particular topic or matter. In this regard, a Member may not advertise or represent Membership on the Member's transcripts or transcript-related materials or products regardless of the form of, or media used for such materials or products.
3. Although Membership in NCRA is on an individual basis, the designation "includes members of NCRA" may be used by a court reporting firm or entity in its advertisements, if a majority of the reporters employed by or independently contracted for by said firm or entity are members in good standing of NCRA.
4. Unauthorized advertisement or representation of NCRA Membership may subject the user to legal action by the Association to the fullest extent permitted by law. Such unauthorized advertising or representation by a Member also may subject the Member to loss of Membership and/or loss of Membership privileges, including the ability to run the Member's advertisements in NCRA publications and the right to have the Member's name listed in the NCRA *PROLink*.

### Dues

#### *Members residing in US Territories*

Members residing in the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands are considered full domestic members of NCRA.

#### *Proration of Dues*

When an application for Membership has been received, such Membership shall become effective upon payment of the following:

- Applications received between January 1 and March 31 shall require payment of a full year's dues.
- Applications received between April 1 and September 30 shall require payment of a full year's dues, however, dues for the following year will be prorated per the schedule on renewal.
- Applications received after September 30 shall require payment of a full year's dues, which will count as dues through the end of the following year. There will be no further proration.

#### *NCRA Membership Cancellation Policy*

This policy will be used when a member asks us to cancel his or her membership for any reason and requests a refund. Dues refunds are given only when requested and after checking that the member has not taken excessive advantage of membership pricing for tests and events thereby exceeding the amount of the dues, in which case there will be review of the amount to be refunded and it may be further pro-rated.

There are separate cancellation policies for new and renewing members. In all cases, "dues amount" refers to the amount paid by the member to allow for refunds even to pro-rated dues amounts.

#### Renewing Member Cancellation Policy

Members will receive a refund if they request one within the first three months of the calendar year. After three months, no refunds will be issued. The refund amount will be based on the date it is requested according to the following schedule.

The refund schedule is:

- between Sept. (for dues paid for the upcoming year) and Jan. 14th - full refund
- between Jan. 15 and Jan. 31 - 75% of dues amount
- between Feb. 1 and Feb. 28 - 65% of dues amount
- between Mar. 1 and Mar. 31 - 50% of dues amount.

Please note that late fees paid after March 31 are not refundable.

### New Member Cancellation Policy

This includes those joining at full dues rate or any pro-rated promotion. Refunds to new members will be based on their join date. New members requesting cancellation within the first three months of membership will receive a refund according to the following schedule. After three months, no refunds will be issued.

The refund schedule is:

- within two weeks of join date - full refund
- within one month of join date - 75% of dues amount
- within two months of join date - 65% of dues amount
- within three months of join date - 50% of dues amount

Please note the \$15 new member processing fee (paid by all members except students) is not refundable.

## Logo and Certification Use Policy

### NCRA Logo Use Policy

#### Eligibility for Use of NCRA Logo

The NCRA Logo is reserved exclusively for use by the Association. No member or any other person or organization should display this logo in any context without express written consent from the Association.

#### Eligibility for Use of NCRA Member Logo

The NCRA Member Logo, recognized by the prominent use of the word *member* is for use by all NCRA members in good standing. NCRA membership is held by individuals, not by companies or firms. The NCRA Member Logo may **not** be used by a court reporting firm or company except as specified below.

Member includes any of NCRA's membership classes (Participating Members, Registered Members, Student Members, Honorary Members, Associate Members, Retired, and Retired Lifetime Members).

#### Rules and Restrictions

- A member in good standing may use or reproduce the **NCRA Member Logo** on such member's advertising, business cards, letterhead, brochures, and other promotional materials in any medium **solely to denote the individual's membership in the Association**. A court reporting firm cannot use it in any way that gives the impression that the firm is a member of NCRA. For example, a firm can only use the NCRA Member logo on its website if it accurately and explicitly makes clear which individuals hold membership.
- A member may not use the **NCRA Member Logo** as an expression of the Association's views or its endorsement or approval of a particular topic or matter. In this regard, a member may not use the NCRA Member Logo on the member's transcripts or transcript-related materials or products regardless of the form of or media used for such materials or products.
- The NCRA Member Logo must be used or reproduced in its entirety. The NCRA Member Logo may not be changed in any way, and no fragments or portions of the NCRA Member Logo may be used or reproduced.
- The NCRA Member Logo must be reproduced in black and white or in the two colors specified by NCRA (text in PMS 288 and the graphic in PMS 7409) and in a reasonable size to ensure readability. A small reproduction may make certain constituent parts of the NCRA Member Logo illegible. Use of the NCRA Member Logo on any web page must function as a link to the NCRA website. It is the responsibility of the user of the logo to maintain the link as an active link at all times or remove the logo from the web page.
- Only NCRA Members may download the NCRA Member Logo after agreeing to abide by the NCRA Logo Use Policy.
- Any other use of the NCRA Member Logo is prohibited, except to the extent expressly permitted by the NCRA Board of Directors. Unauthorized use of the NCRA Member Logo may subject the user to legal action by the Association to the fullest extent permitted by law. Unauthorized use by a member may subject the member to loss of membership and/or

loss of membership privileges, including the ability to run the member's advertisements in Association advertising media and the right to have the member's name listed in the *NCRA PROLink*.

### **NCRA Certification and Certificate Use Policy**

#### **NCRA certifications:**

Registered Professional Reporter (RPR)  
 Registered Merit Reporter (RMR)  
 Registered Diplomat Reporter (RDR)  
 Certified Realtime Reporter (CRR)  
 Certified Realtime Captioner (CRC)  
 Certified Legal Video Specialist (CLVS)  
 Certified Manager of Reporters Services (CMRS) *(This program has been discontinued.)*  
 Certified Reporting Instructor (CRI)  
 Master Certified Reporting Instructor (MCRI) *(This program has been discontinued.)*  
 Certified Program Evaluator (CPE) *(This program is being transitioned to a certificate.)*

Any NCRA member who has earned one or more NCRA certification(s) may use the certification(s) or abbreviation(s) **solely to denote that the individual has earned the certification(s)**. Any other use of the certification(s) is prohibited.

The **NCRA certifications** and their abbreviations are personal certifications. The phrase *includes RPRs* or *includes Registered Professional Reporters* may be used by a court reporting firm or entity in its advertisements **if a majority** of the reporters employed by or independently contracted by said firm or entity hold said certification. This policy shall equally apply to other NCRA designations.

Unauthorized use of the certifications may subject the user to legal action by the Association to the fullest extent permitted by law. Such unauthorized use by a member also may subject the member to loss of Membership and its privileges, including the right to have the member's name listed in the *NCRA Sourcebook*.

#### **NCRA Certificate Programs:**

Realtime Systems Administrator *(This program has been discontinued.)*  
 Trial Presentation Professional

For **NCRA certificate programs**, the use of an acronym such as RSA or TPP after a name is prohibited.

By successfully completing the seminars and passing the test, participants who are members of NCRA are authorized to use terminology on marketing materials as follows:

- NCRA Realtime Systems Administrator
- NCRA Trial Presentation Professional

Unauthorized use of **NCRA certificates** may subject the user to legal action by the Association to the fullest extent permitted by law. Such unauthorized use by a member also may subject the member to loss of membership and its privileges, including the right to have the Member's name listed in the *NCRA PROLink*.

#### **Eligibility for Use of CLVS Logo**

The CLVS logo is for use by all persons who currently hold the **Certified Legal Video Specialist Certification**.

##### **Rules and Restrictions**

- A CLVS whose certification is current and who is in good standing with the Association may use or reproduce the **CLVS Logo** on such CLVS's advertising, business cards, letterhead, brochures, and other promotional materials in any medium **solely to denote the individual's holding of that certification**. A videography firm or court reporting firm cannot use it in any way that gives the impression that the firm holds the CLVS certification. For example, a firm can only use the NCRA CLVS Logo on its website if it accurately and explicitly makes clear which individuals hold membership.



- A CLVS may not use the **CLVS logo** as an expression of the Association's views or its endorsement or approval of a particular topic or matter. In this regard, a CLVS may not use the **CLVS Logo** on the CLVS's work product, regardless of the form of or media used for such work product.
- The CLVS Logo must be reproduced in black and white or in the official color and in a reasonable size to ensure readability. A small reproduction may make certain constituent parts of the CLVS Logo illegible. Use of the CLVS Logo on any web page must function as a link to the CLVS page on the NCRA website. It is the responsibility of the user of the logo to maintain the link as an active link at all times or remove the logo from the web page.
- A CLVS in good standing may download the NCRA CLVS Logo after agreeing to abide by the NCRA CLVS Logo Use Policy.

Unauthorized use of the CLVS Logo may subject the user to legal action by the Association to the fullest extent permitted by law, Such unauthorized use by a member also may subject the member to loss of membership and its privileges, including the right to have the Member's name listed in the *NCRA PROLink*.

### Policy on Use of Ethics First Logo

#### Eligibility for use of the **Ethics First Participant Logo**

To be eligible to be an **Ethics First Participant**, the individual must be:

- an NCRA member and
- involved in making the judicial/impartial record.
  - This includes NCRA-member stenographic reporters and NCRA-member legal videographers.

#### Eligibility for **Ethics First Firm Logo**

To be eligible as an **Ethics First Firm**, the firm in question must have:

- at least one owner or manager who is an NCRA member.
  - NOTE: Once a firm owner/manager registers their firm for **Ethics First**, that individual will automatically be registered as an **Ethics First Participant** or **Supporter**, depending on eligibility.

#### Eligibility for Use of the **Ethics First Supporter Logo**

The **Ethics First Supporter** category encompasses all individuals and organizations who, although not themselves directly involved in creating the record in judicial court proceedings or depositions, support the principles espoused by the **Ethics First** program.

This includes:

- attorneys
- law firms
- state and local bar associations
- judges
- state and local court reporter associations
- captioners\*
- vendors\*
- scopists\*
- Transcriptionists.\*

- ★ The individual must be in the appropriate classification of NCRA membership (e.g., associate, retired, student) to be eligible for the **Ethics First Supporter** category. The **Supporter** category is not intended to allow nonmembers the opportunity to skirt the membership requirement for **Ethics First Participants**. Although captioners are NCRA members, they do not "make the judicial record" and therefore are ineligible to be Ethics First Participants. Captioners are eligible to be Ethics First Supporters.

In order to maintain the integrity of the program, NCRA reserves the right to determine the eligibility of any individual, firm, or association seeking to become an **Ethics First Supporter**.

Any other use of any of these logos is prohibited, except to the extent expressly permitted by the NCRA Board of Directors. Unauthorized use of the logos may subject the user to legal action by the Association to the fullest extent permitted by law. Unauthorized use by a member may subject the member to loss of membership and/or loss of membership privileges, including the ability to run the member's advertisements in Association advertising media and the right to have the Member's name listed in the *NCRA PROLink*.

## Retired Membership

Retired Lifetime and Retired Members will only receive the *JCR* electronically, unless they wish to subscribe and pay for a hard copy.

## SECTION 2: CODE OF PROFESSIONAL ETHICS AND CONDUCT

### NCRA Code of Professional Ethics

The following are the preambles related to the Code of Professional Ethics. Please refer to the standalone COPE policy for complete details.

#### ***Member Preamble***

The mandatory Code of Professional Ethics defines the ethical relationship the public, the bench, and the bar have a right to expect from a Member. The Code sets out the conduct of the Member when dealing with the user of reporting services and acquaints the user, as well as the Member, with guidelines established for professional behavior. The Guidelines for Professional Practice, on the other hand, are goals which every Member should strive to attain and maintain. Members are urged to comply with the Guidelines and must adhere to local, state and federal rules and statutes. It should be noted that these guidelines do not exhaust the moral and ethical considerations with which the Member should conform, but provide the framework for the practice of reporting. Not every situation a Member may encounter can be foreseen, but a Member should always adhere to fundamental ethical principles. By complying with the Code of Professional Ethics and Guidelines for Professional Practice, Members maintain their profession at the highest level.

### Advisory Opinion Procedures

Any Member in good standing may submit to the Committee on Professional Ethics a request for an Advisory Opinion. Advisory Opinions shall consist of (1) Private Advisory Opinions and (2) Public Advisory Opinions.

#### Private Advisory Opinions

- A Private Advisory Opinion may be requested in lieu of proceeding with a complaint, as provided in Section A(3) of the Complaint Procedures, or by persons who seek guidance as to whether certain actions or conduct are permitted under the Code of Professional Ethics.
- The Committee shall keep confidential the identity of the person or persons making the request and the identity of those names in the request, unless otherwise directed by the Board of Directors.
- The Committee's response to requests for Private Advisory Opinions shall be within the limitations of the information received by the Committee. Additional information may be requested by the Committee, if needed.

#### Public Advisory Opinions

The Committee may from time to time recommend publication of Public Advisory Opinions which illuminate one or more of the provisions of the Code of Professional Ethics. These opinions may be based on facts derived from requested Private Advisory Opinions, deleting reference to names or places, or on an assumed state of facts.

#### Review

The Board of Directors may review any Private or Public Advisory Opinion on its own motion and adopt, modify, or reject it in whole or in part. Please visit website "Professional Resources" for complete list of COPE Advisory Opinions.

## Captioners Code of Professional Ethics

### *Member Preamble*

The mandatory Code of Professional Ethics defines the ethical relationship the public has a right to expect from a Member. The Code sets out the conduct of the Member when dealing with the Consumer and/or Client of CART (Communication Access Realtime Translation) and broadcast captioning services and acquaints the Consumer and/or Client, as well as the Member, with guidelines established for professional behavior.

The Guidelines for Professional Practice, on the other hand, are goals that every Member should strive to attain and maintain. Members are urged to comply with the guidelines and must adhere to local, state, and federal rules and statutes. It should be noted that these guidelines do not exhaust the moral and ethical considerations with which the Member should conform but provide the framework for the practice of CART and broadcast captioning. Not every situation a Member may encounter can be foreseen, but a Member should always adhere to fundamental ethical principles. By complying with the Code of Professional Ethics and Guidelines for Professional Practice, Members maintain their profession at the highest level.

## Certified Legal Video Specialist Code of Professional Ethics

### *Preamble*

The mandatory Code of Professional Ethics for Certified Legal Video Services (CLVS) defines the ethical relationship the public, the bench, and the bar have a right to expect from a CLVS Member. The Code sets out the conduct of the CLVS Member when dealing with the user of video services and acquaints the user, as well as the Member, with guidelines established for professional behavior. By complying with the CLVS Code of Professional Ethics, CLVS Members maintain their profession at the highest level.

A CLVS Member must also adhere to the voluntary Principles for Professional Practice when providing legal video services as well as all local, state and federal rules and statutes.

## Ethics First

Ethics First is a voluntary, no-cost public awareness program that seeks to positively educate court reporters, colleagues, firms, and in particular, their clients and consumers about how and why the impartiality and neutrality of the court reporter is of the utmost importance in maintaining an unbiased legal system.

## Advertising

All NCRA Advertising agreements shall include an affirmative agreement by the Advertiser that it supports the purposes and objectives of NCRA and will comply with the NCRA Code of Professional Ethics, if applicable to the Advertiser's business, as a condition for Advertising.

## SECTION 3: ASSOCIATION GOVERNANCE

### Advertising and Sponsorship Policy

#### **Definitions**

The terms "Advertise," "Advertising" and/or "Advertisement" shall broadly include all paid advertising, sponsorship, or promotional opportunities offered by NCRA, whether in print or online, including any and all display advertising, classified advertising, event and other sponsorships, advertising inserts, flyers, or promotional items, etc.

"Advertiser" shall include any individual or entity purchasing Advertising from NCRA, regardless of whether they are eligible for or hold NCRA membership.

- A. No advertisement may be false, misleading, deceptive, in poor taste, or contrary to the purposes and objectives of NCRA. NCRA will not publish or allow Advertisements that indicate a preference in terms of race, color, sex, gender, national origin, age, disability, pregnancy, marital status, religion, sexual preference, political affiliation, or that may otherwise be offensive or distasteful. All such decisions shall be made in NCRA's sole discretion.
- B. Without limitation, no Advertisement or any other communication using NCRA platforms shall promote or highlight reporting methods other than the stenographic method.
- C. Although the NCRA certifications and their abbreviations are personal certifications, the phrase "includes RPRs" or "includes Registered Professional Reporters" may be used by a court reporting/captioning entity in its Advertisements, but only if a majority of the court reporters/captioners employed or independently contracted by said entity hold said certification. This policy shall equally apply to all other NCRA designations. Mentioning of individuals utilizing other reporting methods other than the stenographic method is not allowed.
- D. Only designations currently conferred by NCRA, as well as designations for a court reporter/captioner that are officially recognized by the state in which the court reporter/captioner is licensed to practice, may be used to refer to the services or skills of a court reporter/captioner in an Advertisement. This Advertising Policy is not intended to prohibit or restrict the use of academic degrees or other professional designations unrelated to court reporting/captioning skills or services in Advertisements.
- E. A court reporting/captioning entity (agency) may Advertise its stenographic services if a majority of the court reporters/captioners employed or independently contracted by the entity are members in good standing of NCRA and are actively engaged in providing stenographic services. Mentioning services other than stenographic reporting is not allowed.
- F. A copy of this Advertising Policy and the NCRA Code of Professional Ethics shall be given and agreed to in writing by each individual or entity that submits an Advertisement. To the extent applicable to the Advertiser's business, each Advertiser also must represent and agree in writing that it supports the purposes and objectives of NCRA and will be bound by the NCRA Code of Professional Ethics. Each Advertiser agrees to provide, upon request, proof that the above requirements are satisfied.
- G. NCRA may reject or terminate any Advertising from any individual or entity that violates this Policy, or whose activities are contrary to the purposes and objectives of NCRA or violate the NCRA Code of Professional Ethics. In such case, the Advertiser will not be entitled to a refund and will forfeit its rights to obtain any further benefits for the year until there is compliance.
- H. All materials are subject to review by NCRA prior to publication.

## Advertising Complaint Process: Alleged Code of Professional Ethics (COPE) Violations

### Definitions

"Advertise," "Advertising" and/or "Advertisement shall include all paid advertising or promotional opportunities offered by NCRA, whether in print or online, including any and all display advertising, classified advertising, event and other sponsorships, advertising inserts, flyers, or promotional items, etc.

"Advertiser" shall include any individual or entity purchasing Advertising from NCRA, regardless of whether they are eligible for or hold NCRA membership.

### Advertising Agreements and Scope

As a condition of advertising, all NCRA Advertising agreements shall include an affirmative agreement by the Advertiser that it will abide by NCRA's Advertising and Sponsorship Policy and that it supports the purposes and objectives of NCRA and will comply with the NCRA Code of Professional Ethics.

Actions in violation of COPE need **not** be apparent or referenced in the content of the Advertising itself to form a basis for complaint. A proven violation of COPE by the Advertiser is sufficient for disciplinary action, including limitations on Advertising privileges, regardless of whether the violative behavior is referenced or discussed in the content of the Advertisement.

Complaints of violations of COPE by the Advertiser will only be considered for activities occurring from the time of signing the Advertising agreement forward. Complaints based on past activities without evidence that these violative practices have continued will be dismissed.

## Complaint Process

The NCRA Advertising Complaint Procedures\* (below) provides the same due process and evidentiary standards as the current COPE process:

- Step 1: A formal, written complaint that the advertiser has violated the Code as well as documentary evidence substantiating the claim must be filed with the Committee on Professional Ethics.
- Step 2: The accused entity will have the opportunity to respond to the allegations.
- Step 3: The Committee on Professional Ethics will then consider the merits of the allegation and issue a written finding.
- Step 4: If there is a finding of violation and a recommendation for the temporary or permanent loss of NCRA Advertising privileges, such decision shall not become final until it is sustained by the NCRA Board of Directors.
- Step 5: The decision of the NCRA Board of Directors whether or not to sustain is final.

## Sanctions:

If an Advertiser is held in violation of the Code, based upon the severity of the violation, sanctions may include but are not limited to:

- A cautionary letter, warning or statement of advice; or
- A permanent or temporary loss of NCRA Advertising privileges

Advertising privileges normally will not be restricted or impinged upon unless a formal complaint has been filed and a final finding of violation has been made. That is, Advertisers usually may continue to advertise while a complaint is pending. Advertising privileges may be suspended pending the outcome of a complaint; however, in situations where the Executive Director of NCRA, in consultation with NCRA's President and legal counsel, determine in their discretion that the nature of the proposed violation is so blatant and serious that immediate action is required.

## Advertising complaint procedures for nonmembers

The following procedures shall be followed in instituting and resolving complaints that an Advertiser of the Association (who is not a member of the Association) has violated the Code of Professional Ethics. Complaints against Advertisers who are Members of the Association are handled under the Code of Professional Ethics Complaint Procedures.

Advertising privileges normally will not be restricted or impinged upon unless a formal complaint has been filed and a final finding of violation has been made. That is, Advertisers usually may continue to advertise while a complaint is pending. Advertising privileges may be suspended pending the outcome of a complaint, however, in situations where the Executive Director of NCRA, in consultation with NCRA's President and legal counsel, determine in their discretion that the nature of the proposed violation is so blatant and serious that immediate action is required.

Complaints against advertisers shall only be considered for actions in violation of COPE occurring within one year of the violation.

"Executive Director" refers to the Executive Director or his or her designated representative.

"Advertising Venue" includes but is not limited to the Association's print publications, online directories, online forums, social media, website, *NCRA PROLink*, meeting exhibits, sponsorships, and meeting advertisements.

## A. Filing and investigation of complaints

1. Any person may file a complaint against an Advertiser with NCRA who is not a Member of the Association on an approved NCRA complaint form, or in a format meeting the requirements set forth in Paragraph A.2. The Executive Director shall promptly acknowledge receipt of all complaints. The Executive Director shall send a copy of these complaint procedures, the Code of Professional Ethics, and the NCRA Advertising and Sponsorship Policy to the person making the complaint. If the complaint does not contain all of the required information, the Executive Director shall advise the person making the complaint that further information must be provided before any further action can be taken, and shall specify what further information is required. Any complaint not meeting the requirements of Paragraph A.2. will not be considered.
2. All complaints must be in writing, signed by the person making the complaint, and addressed to the Executive Director of the Association. All complaints must contain the name and address of the Advertiser complained against, a description of the conduct complained of, and references to the specific provisions of the Code involved

in the complaint. In addition, the complaint must include all pertinent documentation that is made to substantiate the complaint available at the time the complaint. All complaints must be signed by the complainant and the complainant must affirm that the facts stated in the complaint are true and accurate to the best of the complainant's knowledge and belief. The complaint must also contain the complainant's consent for the Association's disclosure of the complaint to the Advertiser complained against, the members of the Committee of Professional Ethics, and Association directors, officers and appropriate staff.

3. Despite the satisfaction of all the requirements of Paragraph A.2, the NCRA Executive Director, the Chair of the Committee and a NCRA staff liaison to the Committee may determine, in their sole discretion, not to send the complaint to the full Committee if the complaint (a) fails to state grounds upon which the Committee may recommend action; or (b) is beyond the scope or authority of the Committee; (c) or the matter can be resolved informally through discussions with the Advertiser. If the complaint involves purely business practice issues or ethics and business practice issues as determined by the Committee, the complaint will be referred first to alternative dispute resolution to address those issues outside the scope of the Committee. After the business practice issues have been resolved, the complainant may file an ethics complaint with the Committee.

If the complaint is not sent to the full Committee for the reasons set forth above, the NCRA Executive Director shall inform the complainant in writing of such fact and the reasons why the full Committee will not consider the complaint. The complainant may then make a request to the full Committee to review the decision not to send the complaint to the full Committee at its next scheduled meeting. The Committee may, at that point, decide to consider a complaint that had been previously dismissed.

4. Once a complaint is accepted for processing, NCRA will send all written communications to the person making the complaint and the Advertiser complained against by certified mail, overnight express courier or hand delivery. The Executive Director shall forward a copy of the complaint to the Advertiser complained against, along with a copy of these complaint procedures, and copies of the signed Advertising Agreement, the Advertising and Sponsorship Policy, the Constitution and Bylaws, and the Code of Professional Ethics, and request that the Advertiser respond to the complaint in writing within thirty (30) days from the date of the letter of notification. A copy of any response received shall be forwarded to all other parties.
5. NCRA shall keep confidential all records, documents, files, and evidence pertaining to a complaint, and proceedings will be closed to the public, except as may be necessary for compliance with these complaint procedures or to take ancillary action with respect thereto, or unless ordered otherwise by a court or agency of competent jurisdiction.

Any party initiating a complaint shall agree in writing not to disclose all or part of any record, document, file, evidence, the decision of the Committee, or any decision of the Board as well as to indemnify and hold harmless the Association from any claim or action that may result from such improper disclosure. Furthermore, any party violating these confidentiality provisions shall be subject to sanctions under these procedures.

Should an Advertiser cancel his or her Advertising Agreement with NCRA while an ethics complaint is pending, the Committee shall complete the processing of the complaint as specified in these procedures.

#### **B. Proceedings by the committee on professional ethics**

1. When the thirty-day (30) period has elapsed, the Executive Director shall forward the complaint, documents submitted, and the response, if any, to the Committee on Professional Ethics. The Committee on Professional Ethics may reach its decision based on the complaint and the response, if any, or may ask the Executive Director to obtain additional information. The Committee may also grant an opportunity for the person making the complaint and the Advertiser complained of to be heard either in person, through legal counsel or in a format agreed to by all parties. If the Committee determines there are disputed issues of fact that are material to its decision, it may grant any party an opportunity to present relevant information, including documents and witnesses, and an opportunity to cross-examine the witnesses called by any party. The Committee shall be the judge of the relevance and materiality of any information offered, and conformity to legal rules of evidence shall not be necessary.
2. The Committee shall thereafter prepare a written decision containing its findings of fact and conclusions. It may issue a cautionary letter, warning, or statement of advice to the Advertiser. The Committee may on a case-by-case basis require Advertisers to take one or more ethics seminars. The Advertiser will be informed of this requirement in their decision letter.

Alternatively, the Committee may decide that the Advertiser be denied the opportunity to advertise for up to one (1) year in any Association advertising venues, or may order that the Advertiser be permanently banned from advertising. Such a decision shall not become effective unless it is sustained by the Board of Directors.

3. The Committee shall inform all parties as to the status of the complaint within ninety (90) days after the case is received by the Committee from the Executive Director. If a hearing is scheduled, the Committee shall render its decision within sixty (60) days after the hearing is completed. Notwithstanding the above, the Committee may suspend the processing of the complaint pending the outcome of any related administrative, civil, or criminal proceedings, or for any other reason deemed appropriate by the Committee to ensure fairness or due process for all parties.

### C. Appeals

1. The Executive Director shall promptly send a copy of the decision of the Committee on Professional Ethics to the person making the complaint and the Advertiser complained against.
2. A decision to issue a cautionary letter, warning or statement of advice shall be final.
3. If there is a recommendation for a permanent or temporary loss of NCRA Advertising privileges, the Advertiser shall have thirty (30) days from the date of the letter notifying all parties of the Committee's decision in which to provide any additional information to be considered by the NCRA Board of Directors.
4. If the Advertiser provides any additional information, a letter shall be sent to the person making the complaint with an opportunity to respond thereto within an additional fifteen (15) days.
5. When the time periods for submitting additional information have expired, the Executive Director shall forward to the Board of Directors all documentation relating to the matter. The Board may decide the matter on the basis of these documents, or may grant a request for oral argument made by any party, in person or through their attorney.
6. The decision by the Board of Directors whether or not to sustain the decision for there to be a permanent or temporary loss of NCRA Advertising privileges shall be final.

### D. Costs and expenses

1. Each party shall bear his or her own costs and expenses with respect to any proceeding.

## Vendors/Suppliers Advertising

Vendors/suppliers who compete with vendors/suppliers of programs that NCRA endorses may advertise in NCRA publications and exhibit at NCRA meetings and conferences.

## Election Procedures

### I. Candidate Rights and Benefits

All candidates, whether nominated by the Nominating Committee process or by petition, will have the same general rights and benefits.

As required by the Constitution and Bylaws, the order of names on any ballot or other listing of candidates published by NCRA shall be determined by lot. Such listings shall not designate whether the nomination originated from the Nominating Committee or from member petition.

It is *not* appropriate or permissible for individual board members to endorse or campaign on behalf of candidates in contested elections, with the sole exception that sitting directors or officers who are themselves candidates for office may campaign on their own behalf or jointly with other candidates, if they so choose.

This restriction against publicly endorsing candidates does **not** restrict an individual director or officer from expressing his or her private views on candidates in any private conversation. It is the responsibility of the officer or director to ensure that any such private comments are clearly identified as expressing his or her personal opinion alone and that they do **not** reflect an official position of the Board or association.

In order to avoid having any expression of personal opinion misunderstood, if a director or officer is asked about candidate preferences in a public setting (for example, while making a presentation at a state association meeting), that board

member or officer shall limit their response to re-stating the standing board policy, which prohibits them from endorsing candidates in elections.

## II. Election Committee

- In any election cycle in which there are candidates running for election by the voting members, an Election Committee shall be appointed and responsible for oversight of the election process.
- The President shall appoint an Election Committee Chair and up to four members, subject to approval of the Board.
- The committee shall be the authority on interpretation of these election procedures. Candidates shall have the right of immediate appeal of any decision of the Election Committee to the Board of Directors.

## III. Services to Candidates

NCRA will provide the following services to each candidate:

- NCRA will include the candidate in the published slate of candidates posted on a section of the NCRA website devoted to election information.
  - Candidates nominated by the Nominating Committee shall have their names posted as soon as practicable after the Nominating Committee completes preparation of its slate.
  - Candidates nominated by petition shall have their names posted as soon as practicable after receipt and verification of the nominating petition.
- Biographical material on candidates published in the JCR and on the voting page of the website shall be in a standard format, length and style.
  - The length shall be no more than 200 words.
  - Content shall be limited to biographical info and professional history. No overt campaigning messages or links to campaign materials shall be included.
  - Candidates should refer to the “NCRA Voting Center” on the NCRA website for the elections and nominations timeline for the year. This listing includes:
    - The date the Nominating Committee published its slate.
    - The deadline for contribution of photo and bio materials in order to allow for publication in *JCR* prior to the election.
- Candidates should be aware that, as required by the Constitution and Bylaws, **nominations remain open 60 days after publication of the Nominating Committee slate**. Written nominations must be received within 60 days after publication of the Nominating Committee slate.
- Due to the deadline schedule for the *JCR*, candidates should be aware that it **may be impossible** for candidates nominated after the slate announcement, but before the expiration of the 60-day window for additional nominations, to have their biographies published in the June issue of the magazine; however, they will make the July magazine, as well as be promptly posted on the website.
- All individuals considered by the Nominating Committee must complete a questionnaire created by the committee. Candidates nominated by petition who were not previously considered by the Nominating Committee shall be required to complete the same application materials required of candidates who were considered by the Nominating Committee. If there is more than one candidate for an office, both responses will be published to the NCRA website. The questionnaires will be removed immediately after the election.
- No later than two weeks prior to the election, each candidate may provide NCRA with an “electronic brochure/flyer” they wish to make available to the membership. Ten days prior to the date of the election, NCRA will distribute a single e-mail to all Voting Members who have registered an email address with NCRA. That e-mail will include a full list of all candidates (by office) including: 1) the candidate’s name 2) the candidate’s photo and 3) a link to the candidate’s electronic brochure.
- NCRA will post biographical information prepared by the candidate on NCRA’s website.
- NCRA may host a virtual Town Hall meeting with all candidates in contested elections. Questions shall be moderated by the elections committee. The list of questions from which the moderator will select the questions s/he actually asks shall be provided in writing to all candidates one hour before the event.



- Candidates may purchase advertising and promotional services from among any advertising opportunities (print, electronic, or other) generally available to NCRA advertisers.
  - Any advertising or promotional services purchased by a campaign shall be subject to the same terms and conditions as would apply to any NCRA advertiser.
  - It shall be the responsibility of the candidates to familiarize themselves with the available advertising opportunities and order/ad placement deadlines.
  - NCRA shall **not** create any special or customized advertising or promotional opportunities for candidates outside of the list of advertising and sponsorship opportunities generally publicized to members, attendees, exhibitors, and advertisers.
  - NCRA shall **not** share information with any person on any candidate's campaign, advertising or promotional plans.

#### IV. Campaign Restrictions on Site at the Venue of the Annual Business Meeting

- No posters or other campaign materials may be affixed to or placed against the venue's walls, or left for pick-up in any public space in the convention hotel other than the designated campaign booth. NCRA shall remove and destroy any material found in violation of this requirement.
- Candidates or their representatives may hand out campaign materials in any public place **that is at least 10 feet removed from any convention meeting room or official convention event.**
  - Such campaign activities shall not interfere with members' freedom of movement throughout the hotel or intrude upon non-campaign activities that may be underway in the area.
  - The above restriction against "handing out campaign materials" within "convention meeting rooms or official convention events" refers only to the distribution of literature or materials; it does not preclude persons wearing campaign t-shirts, pins, etc.
- Candidates and their campaign committees shall make every effort to ensure compliance of their supporters with the spirit and letter of these campaign rules.
- Printing or other administrative and support services will not be made available through the NCRA Convention office or from the NCRA staff.
- Requests for assignment of function rooms for campaign purposes will be made through the NCRA Meetings and Conventions department.
- Candidates may conduct any independent activity that does not violate any approved guidelines.

#### V. Election Conduct

- There shall be nominations from the floor of the Annual Business Meeting when a vacancy occurs **after** the election and prior to the close of the Annual Business Meeting. A member who is nominating a candidate from the floor to fill such vacancy shall be allowed two (2) minutes on behalf of a candidate. The candidate shall be allowed three (3) minutes to make a presentation if the candidate chooses.
- Questions to the candidates by attending Voting Members shall be limited to 30 seconds; candidate answers will be limited to two minutes; and a total of 15 minutes for each candidate will be allowed for the question-and-answer period.
- In the case of a tie vote, the election shall be decided by a coin toss.

#### VI. Reporting Election Results

- The NCRA Executive Director shall inform the Election Committee Chair of the results as soon as voting is closed. This notification shall include the total number of votes cast in each election and the number of votes cast for each candidate.
- The Election Committee Chair shall make all efforts to inform candidates with the results of the race. This notification shall include the total number of votes cast in the contest and the number of votes cast for each candidate.

- The Election Committee Chair shall inform the Executive Director as soon as s/he has successfully reached all candidates in order for the election results to be publicly released.
- NCRA staff shall publicly release election results as soon as the Election Committee Chair has successfully reached all candidates.

## **Endorsement Activities & Guidelines for Campaigning While on Rep Assignments**

### Board Endorsement Activities

Individual board members are encouraged to submit names of qualified persons to be forwarded to the nominating committee for consideration as possible candidates for the Board of Directors. Board members shall limit submissions to the name of the potential candidate only. The nominating committee should clearly understand those names are not to be given any special weight or consideration in their deliberations. Board members are not allowed to submit recommendations for Distinguished Service Award, NCRA Fellows, or NCRF Trustees.

### Guidelines for Campaigning While on Rep Assignments

When a director or officer who is a candidate in an NCRA election is attending a meeting at NCRA's expense and representing the association in an official capacity (e.g., is the NCRA rep at an affiliated association meeting), the following guidelines on engaging in campaign activities apply:

Active campaigning is NOT permissible. Active campaigning includes:

- Incorporating campaign messages into formal presentations to the convention.
- Wearing buttons or hats or other campaign paraphernalia containing campaign messages.
- Personally and directly distributing campaign materials (flyers, buttons, etc.) during state convention events (i.e., personally handing out flyers or buttons at a state convention reception or seminar).

Passive campaigning IS permissible, provided it is conducted with common sense and discretion to distance and separate from your roles as a candidate and as an official representative doing NCRA business. You are representing the association; this is not a campaigning opportunity.

Permissible, passive campaigning includes:

- Distributing campaign material (flyers, buttons, etc.) wherever other flyers or promotional literature are being distributed (e.g., at literature tables or as tote bag inserts, whether paid or complimentary, if such distribution options are provided by the convention organizers).
- Allowing posters to be displayed in areas provided for this purpose by the convention organizers or paid advertising where provided by the state association.
- If publicly asked, as a candidate, for your position on an issue, it is preferable to defer an answer to a private conversation, preferably after the convention.

These restrictions do NOT apply to candidates in an NCRA election (including candidates currently serving as an NCRA officer or director) who are attending the meeting in an individual capacity and at their own expense (i.e., not as the official NCRA rep to a state convention.)

## **NCRA Business Summit**

The President and President-elect shall attend the Business Summit with meeting-related expenses being reimbursable.

## **Fundraising Policy**

1. Each governing board (NCRA, NCRF and NCRA PAC) shall independently establish for itself a clear and specific statement of its own expectations of its own board members' financial support of the entity upon whose board they sit.

- a. That statement shall be shared with all persons considering service on those boards prior to the formal nomination process.
2. It shall be an expectation of service that all NCRA Board members shall contribute annually to NCRF in an amount of their own, private determination. It shall also be an expectation of service that all NCRA Board members consider a contribution annually to NCRA PAC in an amount of their own, private determination, subject to existing employment limitations.
  - a. This expectation shall be communicated to all persons considering service on the NCRA Board prior to the formal nomination process.
3. Information on all fundraising activities (whether on-going campaigns or periodic, event-based solicitations), describing opportunities to contribute, shall be shared in writing with members of the three governing boards and staff liaisons.

## JCR Purpose Statement

### JCR

The *JCR: the Journal of Court Reporting* has two complementary purposes: to communicate the activities, goals and mission of its publisher, the National Court Reporters Association; and, simultaneously, to seek out and publish diverse information and views on matters significantly related to the information/court reporting profession. All opinions expressed herein are strictly those of the authors or advertisers unless they are specifically identified as NCRA policy.

## Mailing List Policy and Rental Agreement

Rental of a mailing list is limited to the promotion of educational opportunities. Mailing lists within a state are included in seminar evaluation fees for both affiliated and nonaffiliated groups.

For lists outside of an immediate state or region, the same rate will be charged to affiliates and nonaffiliates (a minimum of \$100 per order). However, NCRA may exercise discretion in determining whether a requesting organization is of sufficient size and the program is of sufficient interest to warrant providing mailing list(s) outside the immediate state/region.

NCRA will employ strict member-privacy guidelines regarding opt-out requests including, but not limited to, an internal process of removing from rental lists any member who has expressed to NCRA the wish to opt-out of any or all mailings. Mailing lists are distributed in an Excel format with name and address upon receipt of payment and the NCRA Mailing List Agreement.

## Product Endorsement Policy

The National Court Reporters Association ("NCRA") as an entity does not certify, rate, endorse or otherwise promote any products or services except by action of the Board of Directors.

As a general matter, directors, officers, staff and other current "officials" may endorse or promote products or services of their own choice, provided that (1) they make clear that they are acting in their personal capacity and not in their official capacity or on behalf of NCRA; and (2) they take all reasonable efforts to ensure that the vendor does not suggest, in written materials or otherwise, any official connection or endorsement by NCRA.

Notwithstanding the general rule stated above, NCRA directors, officers, staff and other current "officials" may appear in vendor advertising and serve as speakers at vendor booths as long as NCRA is not paying for related expenses; including but not limited to lodging expenses, meals, airfare and transportation and no NCRA titles are used or displayed.

For their part, vendors shall comply with the foregoing endorsement rules in connection with their sales and marketing activities. Furthermore, with respect to conventions and other NCRA-sponsored events, vendors shall comply with the NCRA Exhibitor Event Guidelines\*.

*\*The Exhibitor Event Guidelines are part of the exhibitor contract.*

## SECTION 4: BOARD OF DIRECTORS

### Board of Directors Standards of Ethical Conduct

The Board of Directors of the National Court Reporters Association is committed to observing and promoting the highest standards of ethical conduct in the performance of their responsibilities on the Board. All Board members pledge to accept these standards as a minimum guideline for ethical conduct and shall:

#### Accountability

1. Abide in all respects by the NCRA Code of Professional Ethics and all other rules and regulations of the Association (including but not limited to the Association's Articles of Incorporation, and Constitution and Bylaws) and will ensure that their registered membership in the Association remains in good standing at all times.
2. Review all information and materials sent in connection with Board business and attend the meetings of the Board and the Board committees to which appointment is accepted.
3. Fully disclose, at the earliest opportunity, any information that may result in a perceived or actual conflict of interest and act in accordance with the NCRA Conflict of Interest policy.
4. Exercise reasonable care, good faith and due diligence in the Association's affairs.
5. Fully disclose, at the earliest opportunity, information of fact that would have significance in board decision-making.
6. Remain accountable for prudent fiscal management of the Association.

#### Professional Responsibilities

7. Exercise extreme care in all oral or written statements and personal speaking engagements to separate expression of personal opinion or belief from communications carrying the color of authority of the Association. Further, position/title on the Board will not be used when expressing a personal opinion unless acting within one's capacity and duties as a Board member and representing the Board and the Association's position on such issue. A disclaimer shall be made indicating that the board member is appearing in a private/personal capacity and not as an NCRA representative. This disclaimer does not relieve you of your duty to be bound by the Board Standards of Ethical Conduct.
8. Refrain from discussing outside of the meeting room individual differences and opinions about Board and Board Committee decisions.
9. Strive to develop, encourage and uphold the highest standards of personal and professional conduct among one's colleagues and the NCRA membership as a whole.
10. Exercise the powers vested for the good of all members and the Association itself rather than for personal benefit.
11. Avoid situations which may be improper or may give the appearance of impropriety.

#### Confidential Information

12. A Board Member shall not use NCRA materials or assets to inure to their personal or professional use or benefit.
13. Respect the confidentiality of information acquired through Board service.
14. Maintain diligent and alert as to what information learned during Board service can or should be shared with others.
15. Except as the Board of Directors may otherwise require or as otherwise required by law, no Board member shall share, copy, reproduce, transmit, divulge or otherwise disclose any confidential information related to the affairs of the Association, and each member of the Board will uphold the strict confidentiality of meetings and other deliberations and communications of the Board of Directors.
16. "Confidential information" includes but is not limited to discussions in Executive Sessions and information on employees (including compensation); except to the extent that this information is publicly available (such as on the IRS Form 990 and the annual audit report).

#### Collaboration and Cooperation

17. Exhibit and maintain a professional level of courtesy, respect and objectivity in all matters related to Association business, including but not limited to Board meetings, assignments, committee work, interactions with other Board members, interactions with members, recognizing that appointment to the Board is a privilege bestowed by one's colleagues to serve the membership and the mission of the Association.
18. Respect the diversity of opinions as expressed or acted upon by any member or group of members.
19. Promote collaboration, cooperation and partnership among NCRA members.

#### Former Board Members

20. All standards of conduct shall remain important and binding even after an Officer or Board member completes their service. It is expected that Officers and Board members will remain ambassadors of NCRA for life and shall continue to uphold the standards set forth above. With respect to Paragraph 7, it is understood that the views of former Officers and Board members may change, but in no event shall a former Officer or Board member use their former position/title to support any personal opinion that is contrary to the purposes of the association (such as by promoting alternative reporting methods as superior to verbatim stenographic reporting technologies). Any such former Officer or Board member that does so may be asked to cease using their former position/title or, depending on the circumstances, the Board of Directors may seek to revoke any honors, titles, and/or membership in the Association as outlined in Article III, Section 13 (a) of the Constitution and Bylaws. Officers and Board members agree to accept this commitment and accept such sanctions in addition to any remedies provided by the Constitution and Bylaws. Each Officer or Board member agrees to such action as a condition of their service.

*This policy will be reviewed by the Board and signed by each officer and director as a separate document.*

## **Board Standards of Ethical Conduct Complaint Procedures**

The Board Standards of Ethical Conduct (“Board Standards”) is intended to provide guidance and support for the Directors and Officers of NCRA and is not intended to be punitive. Should an allegation be made that a Director or Officer currently serving on the NCRA Board of Directors has violated the Board Standards, reasonable attempts shall first be made to resolve the matter informally and collaboratively, and in a positive and supportive manner, with the participation of all Directors and Officers, including the Director or Officer complained against. Sanctions against a Director or Officer shall only be considered as a last resort.

The following procedures (“the Procedures”) shall be followed in instituting and resolving formal complaints that a Director or Officer currently serving on the NCRA Board of Directors (“Board”) has violated the Board Standards. These same procedures also shall apply to any complaint against a former Officer or Director against whom the complaint is made to the extent practicable.

These Procedures do not apply to any complaint that a Director or Officer has violated NCRA’s general Code of Professional Ethics (“COPE”), state law and any other legal or ethical requirements that may apply to the Director or Officer as a Member of NCRA or as reporter unless the alleged activity also violates the Board Standards. Accordingly, any allegations that a Director or Officer has violated COPE shall be referred to the Committee on Professional Ethics. Likewise, any complaint that a Director or Officer has violated any state law or rule shall be brought before the appropriate state authorities.

These Procedures shall only be utilized if an attempt to reach an informal and collaborative resolution is insufficient or deemed by the Board to be inappropriate given the severity of the allegation(s).

As a general rule, once these Procedures have commenced, neither the complainant nor the Director or Officer that is the subject of the complaint shall participate in any of the Board’s deliberations regarding said complaint. Depending upon the circumstances of a particular complaint and the severity of the sanctions that are being considered, the Board may allow greater participation by the parties.

“Executive Director” refers to the Executive Director or his or her designated representative.

### **A. Filing and Investigation of Complaints**

1. Any NCRA Director, Officer or Member may file a complaint against a Director or Officer currently serving on the NCRA Board of Directors. All complaints must be in writing, signed by the person making the complaint, and addressed to the Executive Director of the Association. All complaints must contain the name of the Officer or Director complained against, a description of the conduct complained of, and references to the specific provisions of the Board Standards involved in the complaint. In addition, the complaint must include all pertinent documentation available at the time of the complaint. All complaints must be signed by the complainant and the complainant must affirm that the facts stated in the complaint are true and accurate to the best of the complainant’s knowledge and belief. The complaint must also contain the complainant’s consent for the Association’s disclosure of the complaint to the Director or Officer complained against, the members of the Board of Directors, and appropriate staff.

2. Once a complaint has been filed and all conditions enumerated in No. 1 above have been met, NCRA will send all written communications to the person making the complaint and the Director or Officer complained against. Any requirement for a written communication under these Procedures may be satisfied by electronic mail, facsimile, certified mail, overnight express courier or hand delivery. The Executive Director shall forward a copy of the complaint to the Director or Officer, along with a copy of these complaint Procedures, and a copy of the Standards, and request that the Director or Officer respond to the complaint in writing within thirty (30) days from the date of the letter of notification. A copy of any response received shall be forwarded to all relevant parties.
3. NCRA shall keep confidential all records, documents, files and evidence pertaining to a complaint, and proceedings will be closed to the public, except as may be necessary for compliance with these complaint Procedures or to take ancillary action with respect thereto, or unless ordered otherwise by a court or agency of competent jurisdiction.
4. Any party initiating a complaint shall agree in writing not to disclose all or part of any record, document, file, evidence, the decision of the Board. Such party shall also agree in writing to indemnify and hold harmless the Association from any claim or action that may result from such improper disclosure of information related to the complaint and conduct of the complaint proceeding.
5. Should a Director or Officer resign from the Board or resign his or her membership in NCRA after these Procedures have been started, the Board shall complete the processing of the complaint as specified in these Procedures.

#### **B. Proceedings by the Board of Directors**

6. When the thirty-day (30) period has elapsed, or earlier, if a response is received earlier, the Executive Director shall forward the complaint, documents submitted, and the response, if any, to the Board of Directors. The Board may reach its decision based on the complaint and the response, if any, or may ask the Executive Director to obtain additional information. The Board may also grant an opportunity for the person making the complaint and the Director or Officer complained against to be heard either in person, through legal counsel or in a format agreed to by all parties. If the Board determines there are disputed issues of fact that are material to its decision, it may grant any party an opportunity to present relevant information, including documents and witnesses, and an opportunity to cross-examine the witnesses called by any party. The Board shall be the judge of the relevance and materiality of any information offered, and conformity to legal rules of evidence shall not be necessary.
7. The Board shall thereafter prepare a written decision containing its findings of fact and conclusions. If the Board finds that a violation has occurred, it may issue a private reprimand, a public reprimand or (in the case of an Officer) may suspend or remove the Officer from their position on the Board.
8. Sanctions imposed by the Board shall be determined by a simple majority vote of the Board, except that removal of an Officer from his or her position shall be governed by the requirements of Article VI, Section 3 of the Constitution and Bylaws
9. The Board may suspend the processing of the complaint pending the outcome of any related administrative, civil or criminal proceedings, or for any other reason deemed appropriate by the Committee to ensure fairness or due process for all parties.
10. All decisions of the Board shall be final and not subject to any appeal.

#### **C. Costs and Expenses**

11. Each party shall bear his or her own costs and expenses with respect to any proceeding except as may be specifically authorized by the Board.

#### **D. Compliance Statement**

12. Each Director and Officer shall be provided with a copy of the Board Standard of Ethical Conduct (“the Board Standards”) and this procedures document (“the Procedures”) and shall affirm that they have read, understand and agree to be bound by the Board Standards and the Procedures.
13. Each potential candidate for a Director or Officer position shall be provided with a copy of the Board Standards and the Procedures and shall affirm that they have read, understand and agree to be bound by the Board Standards and the Procedures.
14. NCRA shall publish the Board Standards and the Procedures, and a listing of those Officers, Directors, and candidates for Officer or Director that have agreed to be bound by them on its website.

*“Executive Director” refers to the Executive Director or his or her designated representative.*

## Ownership of Materials and Information

Any material or information that may be created, prepared or modified, in my capacity as a Board member either by myself or with other members of the Board (Works) are “works made for hire” and are the sole property of NCRA and, therefore, NCRA shall own all right, title and interest in and to the Works, including the entire and exclusive copyrights in the Works.

It is agreed to assign to NCRA ownership of all right, title and interest therein, including but not limited to the entire copyright in the Works. It is agreed to execute all documents, take all actions, and provide assistance as reasonably requested by NCRA to perfect its ownership of the entire copyright to said Works.

## Board Speaking Engagements Other Than Delegated Representative Assignments

1. An NCRA Board member may accept (unpaid except for direct expenses) speaking engagements other than delegated representative assignments. The Board member shall inform the sitting President of the engagement.
2. Any subject matter in a speaking engagement by an NCRA Board member, whether in an official capacity or not, must adhere to the Board Standards of Ethical Conduct, including the NCRA Conflict of Interest policy referenced therein, and the NCRA Mission Statement.

## Listserv Policy and Procedures

Current members of the Board of Directors may elect to have read-only access to NCRA listservs which are not restricted by the nature of the committee (i.e. restricted listservs including, but not limited to, Nominating Committee, COPE, DSA, CAPR).

1. All members of the NCRA Board of Directors shall be included on the NCRA Board listserv.
2. The President, President-elect, and Executive Director of the NCRA Board of Directors shall have access to all allowable listservs, with the ability to comment when necessary.
3. The Board liaison to a specific committee shall automatically be included on that committee’s listserv to assist and reply when necessary.
4. Each member of the Board of Directors may elect to have read-only access to additional allowable listservs for informational and monitoring purposes only.
5. Inclusion on a listserv shall be read-only, with the exception of the Board listserv and the committee listserv for which a Board member is the liaison.
6. If a Board member wishes to comment on a listserv thread, that comment shall be sent directly to the President, with a copy to the Executive Director and staff liaison for that particular committee, for their review and determination whether the comment should be forwarded.
7. Contacting committee members relating to a listserv discussion off listserv (privately) by Board members who have read-only access is not permitted.
8. Discussions contained within a listserv thread shall not be disseminated by a Board member to a non-Board member for any purpose without the preapproval of the President.

## Officer/Director Term Transition

### **INCOMING OFFICERS AND DIRECTORS** (*candidates not currently serving on the Board*)

- 1) Each Director and Officer’s term in office begins upon adjournment of the Annual Business Meeting
  - Attendance by incoming officers/directors at the following convention meetings is **mandatory**:
  - (1) Preconvention Board Meeting
  - (2) NCSA Opening Reception
  - (3) Annual Business Meeting
  - (4) NCSA Annual Meeting
  - (5) And other events as directed by the President

- 2) Incoming officers/directors will be added to Board Intranet and listserv immediately following convention.

### **OUTGOING OFFICERS AND DIRECTORS**

Each outgoing Directors' or Officers' term in office ends at the close of the Annual Business Meeting.

- 1) Attendance at major convention events, and other events during the convention as delineated by the President, is mandatory.
  - Outgoing officers and directors (who receive NCRA reimbursement for their attendance at convention), although they have no official duties or assignments starting with the Premier Session, are expected to remain active and visible for the duration of the convention.
  - Outgoing officers and directors will be removed from the Board intranet and listserv immediately following convention.

## **Executive Committee**

The Executive Committee will exercise its best business judgment to act in what it believes to be in the best interest of NCRA and its members. In the event that the committee takes actions in lieu of the Board of Directors, the committee will provide a detailed summary of its discussion and actions to the Board within 48 hours.

## **SECTION 5: COMMITTEES**

### **Authority**

NCRA committees and task forces serve only in an advisory capacity, making recommendations to the Board of Directors for its consideration.

### **Standing Committees**

#### **Council of the Academy of Professional Reporters**

These guidelines have been adopted to ensure that all candidates for Fellowship will be considered under equal and consistent standards:

#### **Internal Procedures for Fellows Nominations**

1. Only those nominees who receive three-fourths of the votes in the affirmative shall be recommended to the Board of Directors. Abstentions shall not be counted as votes for this purpose.
2. Nominees must meet three of the five eligibility criteria as set forth in the NCRA Constitution and Bylaws.
3. Nominees must be supportive of the goals of the Association.
4. Nominees will have demonstrated leadership quality.
5. When nominations make mention of committee reports and presidential messages, they must be supported by documentation CAPR shall be provided by NCRA staff documents within the records of NCRA relating to a nominee's NCRA board, committee and task force service, as well as documentation of advanced certifications held by each nominee to facilitate the work of the committee.
6. Any discussion of Fellows will be held in executive session.
7. The Board of Directors will be notified of reasons why nominations have been declined.
8. Applications may be held over and resubmitted for the next year.
9. Nominees who are current members of the NCRA Board of Directors shall not be eligible for recommendation until they have completed their terms.



10. Members may not self-nominate for Fellowship in the Academy of Professional Reporters.
11. Nominations must be submitted by a Registered Member of NCRA or be accompanied by at least one letter of support from a Registered Member of NCRA.

### Distinguished Service Award Committee

- 1) The National Court Reporters Association Distinguished Service Award to the Profession may be awarded annually by the Board of Directors to a member of the Association.
- 2) The purpose of the National Court Reporters Association Distinguished Service Award to the Profession is to encourage and to recognize work amounting to distinguished service by individual members of the National Court Reporters Association for the benefit of the reporting profession.
- 3) A recipient of the Distinguished Service Award shall meet the following qualifications:
  - a. Shall be a Registered Member of the Association in good standing, or a Registered Retired Member [i.e. RPR (Ret)] who was a member in good standing upon retirement.
  - b. Shall not be acting as a member of the Distinguished Service Award Committee, or as an officer or director of this Association.
  - c. Shall have been involved in NCRA affairs on an extensive level, during which involvement the candidate shall have rendered distinguished service to this Association, which has contributed to its good reputation, general welfare, or worthy accomplishments. The Committee may consider, among other things, services rendered to state and other reporting associations, public affairs and public relations, writing for association publications, and the advancement of the profession.
- 4) DSA Committee members' terms are governed by Article XII, Section 2(d) of the Constitution and Bylaws. In addition:
  - a. The Chair of the DSA Committee shall be designated by the President. Before beginning its deliberations, the Distinguished Service Award Committee shall be provided by NCRA staff all documents within the records of NCRA relating to a nominee's NCRA committee and task force service, as well as documentation of advanced certifications held by each nominee to facilitate the work of the committee.
- 5) The Committee shall meet via conference call to consider all candidates nominated in that year plus any eligible candidates carried forward from prior years.
  - a. The Committee shall determine either:
    - i. The individual from among these candidates to recommend to the Board for designation as the DSA; or
    - ii. That no DSA should be awarded in that year and so recommend to the Board.
  - b. The Committee may direct that the name of any candidate or candidates not selected be carried forward for consideration by the next year's DSA Committee.
- 6) The Board of Directors gives authority to the DSA committee to seek additional support on members who have been recommended for the DSA from nominators
- 7) Nominations for the Distinguished Service Award may be submitted to the committee only by voting members of the Association or by recognized court reporting associations, together with supporting information. Upon receipt of at least one nomination from a voting member or affiliated organization, all other submissions are accepted as supporting documents.
- 8) Names of candidates shall not be published. The award in any year shall be determined by a majority vote of the Board of Directors following consideration of the report of the Distinguished Service Award Committee. Pursuant to the Bylaws, the Board may accept or reject the Committee's recommendations. The Board may not independently select its own recipient for this award. In the event the Board rejects the Committee's recommendation, the Committee shall, within 10 days after notification, either select an alternate nominee or recommend that no DSA be awarded that year and forward its recommendation to the Board.
- 9) The award shall be presented at an appropriate function during the annual convention, at which time the recipient shall also be presented a DSA plaque signifying the award as well as a DSA pin. The DSA recipient should also that year be recognized by announcement in the same manner as any officer or director of the Association.
- 10) Following the presentation of the award in any year, an article, along with biographical information regarding the DSA recipient, shall be published in the Journal of Court Reporting.

## Nominating Committee

- 1) One person who served on the preceding year's NCRA Nominating Committee shall be appointed to the Nominating Committee the following year.
- 2) The Nominating Committee shall meet with the President, President-elect and Executive Director prior to interviews.
- 3) Upon acceptance, names of candidates will be posted on the NCRA website.
- 4) The slate will only be presented to the President, President-elect and Executive Director prior to public announcement.
- 5) The Chair of the Nominating Committee will call each of the candidates to give them helpful feedback on why they were not chosen and also to encourage them to run again. For consistent messaging, all communications with candidates regarding the interview and selection process should only come through the Chair.
- 6) The candidate shall be informed about the duties, obligations and responsibilities of the office, as well as board policies.
- 7) Discussions, whether verbal or written, of the Nominating Committee are confidential (and shall be treated as executive session) by the Nominating Committee and the candidates.

## Executive Director Performance Evaluation and Compensation Committee

The President, President-Elect, Vice President, Secretary-Treasurer and Immediate Past President will serve as the Executive Director Performance Evaluation and Compensation Committee.

## SECTION 6: LEGAL REQUIREMENTS

### Antitrust Policy

Covered individuals are required to review, sign and return the following antitrust compliance statement.

#### **OBLIGATIONS OF ASSOCIATION OFFICERS, DIRECTORS, COMMITTEE CHAIRS, AND COMMITTEE MEMBERS UNDER THE ANTITRUST LAWS**

This is written to provide a broad, summary description of the obligations you have under the antitrust laws as an officer, director, committee chair, or committee member of the National Court Reporters Association. It is furnished to you pursuant to the requirements of the Constitution and Bylaws. Its purpose is not to provide legal advice, but simply to indicate the kinds of activities and discussions that may create questions under the antitrust laws and accordingly must be avoided.

These guidelines must be observed at all times, in formal Association meetings and events as well as in informal discussions and conferences arising out of, or relating to, Association activities. They apply, for example, when you attend a state association meeting as a representative of the Association. In case of any question about the meaning or application of any of these guidelines as they affect your Association activities, you should consult with the Executive Director of the Association who, in turn, will obtain appropriate legal advice. By signing below, you will indicate that you have read this memorandum and agree to abide by it.

1. You should assume, as the enforcement authorities do, that the antitrust laws are as fully applicable to court reporters, CART providers and captioners as to doctors, lawyers, accountants, real estate brokers, and other professionals. The antitrust laws also apply to all your activities in this Association -- the fact that a violation of the antitrust laws occurs in the course of otherwise wholly legitimate Association activities is no defense.
2. Heavy penalties can be imposed on you, your company, if any, and this Association if you violate the antitrust laws in the course of your Association activities. For you personally, the penalty could be as much as three years' imprisonment, a \$100,000 fine, or both. It is particularly important, therefore, to remain well within the bounds of lawful activity at all times.

3. It is a clear violation of the antitrust laws for members of the same profession or industry to reach any kind of an agreement or understanding concerning the price they will charge for their product or service, other terms or conditions of sale, or the customers they will or will not serve. Because the enforcement authorities, and perhaps the courts, may infer that an unlawful agreement was reached merely from the fact that prices or other matters were discussed at a meeting of the Association, it is prudent to avoid any discussion of the following subjects<sup>1</sup>, except where the Executive Director has obtained advance clearance from Association legal counsel for the proposed discussion:
- (a) rates, fees, or charges (such as page rates, rates for expedited service or additional copies, attendance fees, hourly rates, etc.) of any reporter or reporting company, captioner or captioning company, or CART provider or CART company,
  - (b) past, present or future level of such rates and charges, in general or in particular areas (either geographical areas or types of reporting work, such as medical depositions, or types of CART or captioning work, such as realtime in an educational setting or captioning for a television station);
  - (c) costs of operation, including costs in general, particular components of costs (such as labor, equipment, etc.), costs for particular services, and changes or trends in any of these costs<sup>2</sup>;
  - (d) methods or formulas for setting rates or charges for any reporting, CART or captioning product or service, especially proposals for fee schedules or relative value guides, or the like;
  - (e) transcript production or performance standards that set a maximum obligation on reporters, CART providers or captioners rather than a minimum (e.g., a page of transcript shall have no more than 27 lines);
  - (f) bids, bid solicitations by, or bids submitted to, any customer inviting bids, or any reporter or reporting company's, CART provider or CART company's, or captioner or captioning company's intentions with respect to bids;
  - (g) the identity or location of customers of any reporter or reporting company, CART provider or CART company, or captioner or captioning company, or whether any reporter or reporting company, CART provider or CART company, or captioner or captioning company serves, will serve, or will decline to serve, any customers or group of customers, or area;
  - (h) whether one or more reporters or reporting companies, one or more CART providers or CART companies, or one or more captioners or captioning companies, should boycott or refuse to provide services to any customer or group of customers, should do business only on certain terms and conditions, or should urge their customers or others to do so. (It is entirely proper, however, for the Association, its officers or individual members to promote vigorously the benefits of shorthand and realtime reporting, CART or captioning to potential users of reporting, CART and captioning services (both government and private), to describe to such users the disadvantages and drawbacks of other reporting systems, and to make organized efforts to obtain governmental action favorable to the interests of the reporting, CART and captioning professions.)

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<sup>1</sup> If a discussion should wander into any of these areas, you must stop it at once, and if that proves impossible, you should leave the meeting, inform your staff liaison or Executive Director, and take whatever other steps are needed to make it clear that the discussion was not in any way sanctioned, authorized or approved by the Association.

<sup>2</sup> Association-sponsored educational programs limited to the comparative costs of different reporting, CART, captioning, and transcribing equipment or techniques, identification of the various cost items involved in operating a reporting, CART or captioning business, or improved business operating methods and techniques in general, are likely to be routinely cleared, provided there is no discussion whatsoever of rates or charges to customers or of formulas, schedules, methods, "rules of thumb," or the like to be used in the determination of such rates or charges. Clearance must still be sought, however, to insure that the line between permissible and impermissible activity is maintained.

Under certain narrow circumstances, such as where rates or charges or any of the other topics listed above are regulated by statute or rule of court, the risks of discussing these topics may not be as great. Because of the magnitude of the risks involved, however, the guidance of the Executive Director and Association legal counsel must be sought in advance before engaging in any such discussions.

## Assumption of Risk and Waiver of Liability

Attending any in-person committee and/or board meeting may come with risks related to exposure to COVID-19 and other communicable diseases. All attendees voluntarily assume all risks related to such exposure and waive any claims against NCRA should they become sick. All attendees will be expected to review and follow any rules, regulations, or mandates put in place by federal, state, or local authorities and follow any safety conditions or protocols put in place by the hotel and/or NCRA.

## Confidentiality

All committee members are required to sign a Confidentiality Agreement.

This is not a blanket requirement that all information discussed by a committee must be treated as confidential; rather, this is an affirmative obligation on all committees, task forces, etc., to consider, identify and define such categories of information likely to come to their attention in the course of conducting their official duties which are legitimately sensitive and must be protected. Any concerns should be raised with the staff liaison or the Executive Director.

I hereby affirm that I will not discuss or in any manner communicate confidential information that I may encounter while transacting business on behalf of the National Court Reporters Association (NCRA) to persons not on this committee unless they are specifically engaged by NCRA to assist with such matters or are current members of the NCRA Board of Directors.

***If applicable [testing-related committees]:***

Further, I agree not to participate in the development or presentation of any materials, outlines, tests, or courses specifically designed to prepare candidates for any NCRA national certification examination during my term of service and for at least three years after my term of service is concluded. I also agree not to take any test for a period of three years after serving on the committee.

This statement does not preclude the normal faculty activities of academic instruction.

***If applicable [committees related to work products produced]:***

Further, I understand that any works I may prepare, either by myself or with other members of the Committee, are irrevocably assigned to NCRA and shall remain NCRA's property. All copyright interests of such works are considered "works made for hire" and are the sole property of NCRA.

## Conflict of Interest Policy and Disclosure Statement

All NCRA Board, committee, or task force members are required to sign a Conflict of Interest Policy and Disclosure Statement.

The Disclosure Statement and the Conflict of Interest Statement itself will be published at least annually in the January issue of the *JCR*.

### Conflict of Interest Policy

#### **The legal duty to act in the organization's best interests**

NCRA directors, officers, committee members, staff, and other volunteers face both a legal and an ethical obligation to base their actions and decisions solely on what is in the best interests of NCRA, in accordance with applicable state and federal laws and regulations, and in keeping with best governance practices encouraged by the IRS. Actions should not be influenced by personal considerations. Even the appearance of a conflict of interest must be avoided.

**Duality of interests are common, and do not necessarily create a conflict**

Individuals often have fully legitimate responsibilities to more than one board or organization. Such duality of interests do not necessarily create actual or even perceived conflicts. It is generally only when some specific issue arises in which both organizations have a direct interest that an actual conflict exists.

### **Curing the conflict**

If such a situation develops, a range of actions can be taken to remove the conflict. Often, simple disclosure of the potential conflict, allowing the Board to act in a fully informed and aware manner, is sufficient. Often, the board or committee member may be asked to recuse themselves, or not participate in any discussions or actions on the issue for which the conflict exists. Rarely but occasionally, if the conflict is serious enough in nature, the board or committee member must be prepared to resign or otherwise remove themselves from the position of decision-making authority with the conflicting interest, if the NCRA Board should determine it is necessary for them to do so.

### **The Board/Committee, not the individual, determines if a conflict exists, and if so, what action is necessary**

It is not for the individual member of a board or committee to decide whether a conflict exists. That determination lies with the board/committee itself. For the board or committee to make such an assessment and exercise its corporate responsibility to avoid conflicts of interest, all of its members must disclose any dualities of interest. This is done annually through the individual's completion of the attached disclosure form.

If, in the course of the conduct of its business, the board or committee enters into discussions that raise a concern for an individual that a duality of interest (whether previously disclosed or not) creates a potential conflict, the individual should immediately disclose (or remind) the board/committee leadership of the matter so it can be immediately addressed and resolved.

### **Actions to cure a potential conflict are not a judgment on the individual**

It is important to stress that the existence of a conflict of interest and the actions taken to resolve that conflict are not punitive in nature nor are they in any way a negative reflection on the affected board or committee member's ethics, commitment to NCRA, or personal prudence. It is unrealistic to expect a volunteer leader to have no interests or commitments outside of his or her service on an NCRA board or committee. In fact, limiting service to individuals with absolutely no outside interests or experiences would not only be impractical, it would be detrimental to the quality and expertise of the board or committee.

Exercising care in disclosing all dualities of interest and abiding by the board or committee's decision on whether a conflict exists and how it should be cured (e.g; fully cooperating in a board or committee's decision that an individual should recuse themselves) is a sign of the highest ethical sensibilities.

Actions, such as recusal, also are not a reflection on the individual's ability to act in an objective or impartial manner. The integrity of volunteer leaders is not in question.

However, as US District Court Judge Edward Weinfeld expressed in a November 1982 opinion regarding a judge's duty to recuse him- or herself, "Despite the Court's subjective view that all matters can be resolved impartially, a judge has an independent duty to disqualify himself 'in any proceeding in which impartiality might reasonably be questioned.' The issue is not the Court's own introspective capacity to sit in fair and honest judgment ... but whether a reasonable member of the public ... might fairly question the Court's impartiality. This is an objective standard and 'where the question is close, the judge whose impartiality might reasonably be questioned must recuse himself.'"

### **Conflicts of interest defined (Revised by Board Action: November 10, 2003)**

A conflict of interest occurs whenever an individual has a direct or indirect interest, financial or otherwise, in the outcome of any transaction or matter involving NCRA. A conflict of interest also occurs whenever an individual has a relationship with other parties to the transaction or matter such that the relationship might reasonably be expected to affect the judgment of the individual in the particular transaction or matter in a manner adverse to NCRA.

Conflicts of interest are not limited to formal financial partnerships or arrangements. Any management position or leadership role with decision-making authority (whether voluntary or for compensation) with any board, business network, consulting contract, or other business arrangement in the court reporting profession or related professional specialties (e.g.; CART, captioning) could potentially give rise to a conflict.

Depending upon the immediacy and seriousness of the conflict, a number of resolutions are possible. If the conflict is minimal, highly qualified, or only potential, it may be cured through nothing more than disclosure of the interest and a pledge to remain objective and neutral to it. Other conflicts are more serious and may require the board or committee member to remove him- or herself from any involvement in the association's discussions or decision making on the matter. (This is called recusal.) In rare cases, conflicts are so immediate and serious that resignation from the board, committee, or other association assignment is the only prudent means of avoiding the conflict.

It is the prerogative of the board, not the individual, to determine how severe a conflict is and the appropriate steps that must be taken to remedy it. Accordingly, disclosure of all relationships outside of the individual's official association role

that could potentially create a conflict is critical to the organization's effective enforcement of appropriate conflict-of-interest policies.

If an individual has a conflict of interest or potential conflict of interest in connection with any NCRA transaction or matter, he or she should immediately notify the President, Executive Director, or other appropriate NCRA representative, and disclose all the material facts concerning the actual or potential conflict of interest and his or her relationship to the transaction or matter at issue.

If the conflict of interest arises in connection with the activities of any deliberative body (e.g., the Board of Directors), the conflict should be disclosed to the other members of the body and the individual ordinarily should not participate in the consideration of the transaction or matter at issue. If the conflict of interest arises in connection with a workshop, seminar, or other such program, the individual may be authorized to participate, provided that he or she agrees to disclose to the other participants and attendees the facts giving rise to the conflict and clearly identifies his or her remarks as personal opinion. If the conflict arises in connection with an NCRA publication, the article, book, or other material may be published with an appropriate disclosure to the reader.

*The following statement will accompany the policy for signature:*

I have read the NCRA Conflict-of-Interest Statement, and I support its intent.

I hereby certify that, to the best of my knowledge, I do not have any financial or other interest that raises an actual or potential conflict of interest with my activities on behalf of NCRA. If any actual or potential conflict of interest exists, the conflict, as well as the financial or other interest upon which it is based, is described in the written statement I have attached to this form.

By way of example, a financial or other interest that could give rise to a conflict of interest might include an equity or other ownership interest, a paid consulting agreement, or other business arrangement with a vendor associated with the court reporting, CART, or captioning industry. Among other things, this would cover the receipt of consulting or appearance fees, travel expenses, sales commissions, and royalty payments for the sale or licensing of hardware or software technology, etc. Normally, participation in user groups and beta testing (where the equipment is returned) would not be included or require disclosure. However, conflicts of interest are not limited to formal financial partnerships or arrangements. Any management position or leadership role with decision-making authority (whether voluntary or for compensation) with any board, business network, consulting contract, or other business relationship in the court reporting profession or related professional specialties (e.g.; CART, captioning) could potentially give rise to a conflict and should be disclosed.

If an actual or potential conflict of interest subsequently develops, I will promptly submit an amended Disclosure Statement to the Executive Director, who will forward it to the NCRA General Counsel or other appropriate NCRA representative.

I understand that it is the prerogative of the board, committee, or task force upon which I serve to decide how serious and immediate any conflict is and to determine what steps are necessary to cure the conflict. (These cures include disclosure, recusal, and in extreme cases, resignation.) I agree to abide by the decision of the governing board in any such matter that may arise.

As directed and where appropriate, I will make disclosure of the conflict of interest to NCRA readers, NCRA course participants, or to fellow members of NCRA deliberative bodies.

## Conflict of Interest for Selection Committees

### Introduction

The following policy has been approved by the NCRA Board of Directors to guide the handling of conflicts of interest for award and nominating committees in the selection of awardees/nominees. This policy applies to all NCRA-selection committees. The Association has similar policies governing other deliberating bodies that provide opportunities, benefits or awards to others, including procedures that guide the speed contest committee, scholarship selection committees and grant committees. The purpose of these policies is to avert to the extent possible biasing circumstances, or the appearance of biasing circumstances, in the selection of NCRA awardees/nominees.

Selection committee members understand that the issue is *not* whether they have the ability to act in an objective or impartial manner. The integrity of volunteer leadership is amply evident and their ability to act in a fair and honest manner is not in question. The issue is whether a prior personal or professional relationship might reasonably raise a question in the mind of a member of the general public who does not have access to the full information on the nomination or selection process. In order to avoid a question denigrating the prestige of the honor being

bestowed with the award upon the selected member, NCRA chooses to err on the side of caution in application of these standards.

### **Ethical Standards**

*Award/Nominee Eligibility:* Members of award/nomination selection committees are not eligible to be candidates for that award or board service during their term of service on the award/nominating selection committee.

*Required Circumstances:* Biasing or potential biasing relationships for or against a candidate or an award nominee require committee members to withdraw from service on award/nomination selection committees. They include, but are not limited to,:

- a. family member, spouse, or domestic partner;
- b. anyone with whom one has a current business or financial relationship;
- c. participating in the selection decision when a person made or advocated the candidate's current nomination.

*Elective Circumstances:* Members of award/nominating committees *may* for other reasons determine that they have conflicts or potential conflicts that require elimination from service and then act on that determination if they believe that service could affect the fairness of the selection process. However, the individual is obligated to inform the committee so the committee can make the determination.

1. Conflict of interest standards and implementation procedures for award/nominating committee service shall be widely publicized and readily accessible to NCRA members.
2. NCRA Officers and others appointing members of award/nominating selection committees shall make potential committee members aware of these ethical standards and the implementation procedures.
3. Alternates shall be appointed by or readily accessible to those appointing members of selection committees so that substitute appointments can be readily made if any committee member or members need to step down from service.
4. Upon receipt of all nomination forms, committee members need to make known whether they can continue service on the award/nominating committee or whether they are in a circumstance that mandates withdrawal from service.
5. If vacancies occur on award selection committees due to withdrawal of members from service, those vacancies shall be filled promptly by the NCRA President.
6. Any award selection chair or committee member with questions or ambiguous circumstances or who finds the full implementation disruptive shall seek the advice of the Executive Director who will, where necessary, consult with the President on this policy and its implementation.

## **Guidelines for NCRA Listserv and NCRA-labeled Social Media Platform Etiquette**

To ensure the best possible experience for all listserv and NCRA-labeled social media platform participants and to avoid legal liability, participants are asked to observe some basic guidelines for participation.

By using these e-mail lists or participating in any NCRA-labeled social media platforms, you agree that you have read and will follow the rules and guidelines set for these peer discussion groups and engagement platforms. You also agree to reserve discussions for topics best suited to the medium.

Please take a moment to acquaint yourself with these important guidelines. If you have questions about the NCRA Listserv, contact the NCRA Listserv Administrator at: [listservadm@ncra.org](mailto:listservadm@ncra.org). If you have questions about any NCRA-labeled social media platform, contact the NCRA social media content manager at: [contentmanager@ncra.org](mailto:contentmanager@ncra.org). In order to preserve a climate that encourages both civil and fruitful dialogue in a lawful manner, NCRA reserves the right to suspend or terminate participation on all lists and NCRA-labeled social media platforms for members/participants who violate these guidelines based on NCRA's sole discretion.

### **Guidelines for Listserv Discussions and Social Media Engagements**

Please keep the following guidelines in mind when posting and engaging with others on NCRA Listserv and NCRA-labeled social media platforms.

- **Do not challenge or attack others.** The discussions on the listservs and social media communities are meant to stimulate conversation not to create contention. Let others have their say, just as you may.

- Promotion of or solicitation for any particular service, product, or person is prohibited on NCRA listservs. Commercial messages will be deleted.
- Messages that are inconsistent with NCRA's mission, such as messages that promote alternative reporting methods over verbatim stenographic reporting technologies, are not allowed on listservs and social media.
- **Use caution when discussing products or business practices. Information posted is available for all to see, and comments are subject to libel, slander, and antitrust laws.**
- **All defamatory, abusive, profane, threatening, offensive, or illegal materials are strictly prohibited.**
- **Do not degrade others on the basis of gender, race, class, ethnicity, national origin, religion, sexual orientation, disability, or other classifications.**
- **Please note carefully all items listed in the disclaimer and legal rules below**, particularly regarding copyright ownership, defamation, personal privacy rights, and antitrust concerns of information posted to the listserv or NCRA-labeled social media platforms.

### Listserv Etiquette

NCRA Listserv is a medium with which to solicit the advice of your peers, benefit from their experience, and participate in an ongoing conversation. In order to facilitate meaningful and productive discussions, please keep the following Listserv Etiquette in mind:

- Include a signature tag on all messages. Include your full name, affiliation, location, and e-mail address.
- Be sure the Subject line clearly and concisely states the actual topic you are addressing. This allows members to respond more appropriately to your posting and makes it easier for members to search the archives by subject. This is particularly important when replying to a listserv posting or when changing the subject. (The subject line: "RE: Listserv Digest for the week of March 3-15, 2009" does not give your readers enough pertinent information when trying to decide whether or not to open and read your post.)
- When responding to a specific post, include enough text from the original message to make it clear exactly what posting it is you are commenting on. If there have been dozens of individual posts on a particular topic, your posting: "The exact same thing happened in Tuscaloosa just last year!" is probably not going to be as informative as you intended!
- **But only include the relevant portions of the original message in your reply.** If you get your listserv postings in Digest form, people don't need another copy of all 32 previous comments on the subject in the body or your reply. Cut and paste is a great tool. Feel free to use it.
- Only send a message to the entire list when it contains information that everyone can benefit from. If you want to carry on a private conversation, thank someone for a particularly useful piece of information, or express nothing more than your agreement with their posting, send a separate and private email to that individual, **not** to the listserv.
- **This is the most frequently complained about violation of listserv etiquette, so just to be clear:** Send messages such as "thanks for the information" or "me, too" to individuals--not to the entire list. Do this by using your e-mail application's forwarding option and typing in or cutting and pasting in the e-mail address of the individual to whom you want to respond.
- Do not forward messages or even segments of messages from the listserv to persons not on the listserv without the express permission of the person you are "quoting."
- Do not send administrative messages, such as "remove me from the list," through the listserv. Instead, click on the unsubscribe link that appears at the bottom of each email on that particular listserv. If you are changing e-mail addresses, send an email to the NCRA Listserv Administrator ([listservadm@ncra.org](mailto:listservadm@ncra.org)).
- Warn other list subscribers of lengthy messages either in the subject line or at the beginning of the message body with a line that says "Long Message."
- This is a listserv, not an online forum. **Once you hit send, your message is delivered into the individual email inboxes of every subscriber on the list. There is no way for NCRA or anyone else to delete a posting after the fact** if it is offensive, raises antitrust concerns or otherwise violates these rules and guidelines. So the burden is on **you** to be sensitive to the contents of what you post.

### The Legal Stuff



By posting materials to NCRA Listservs and NCRA-labeled social media platforms, mentioning NCRA or NCRA events/programs in your public social media posts (i.e. using “hashtag”, “tag”, etc.), you grant to NCRA the nonexclusive, worldwide, transferable right and license to display, copy, publish, distribute, transmit, print, and use such information or other material in any way and in any medium, including but not limited to print or electronic form.

Do not post any information or other material subject to copyright or privacy rights without obtaining the appropriate permission. By posting materials, the posting party warrants and represents that he or she owns the copyright with respect to such material or has received permission from the copyright owner and does not violate any third-party privacy rights.

The listservs and NCRA-labeled social media platforms are provided as a service of NCRA for its members and the community. The opinions of moderators, posters, and commentators are their own and not necessarily that of NCRA, and NCRA is not responsible for such opinions and information posted.

NCRA disclaims all warranties with regard to information posted on the listserv or NCRA-labeled social media platforms, whether posted by NCRA or any third party. This disclaimer includes all implied warranties of merchantability and fitness. In no event shall NCRA be liable for any special, indirect, or consequential damages or any damages whatsoever resulting from loss of use, data, or profits arising out of or in connection with the use or performance of any information posted on this site.

You are responsible for any consequences resulting from your postings, whether intended or unintended. Because violation of these guidelines may place other members and NCRA at risk of legal claims, NCRA reserves the right to remove postings in violation of these guidelines based on NCRA’s sole discretion.

**Basic Antitrust Rules.** The lawyers’ word it this way: *Messages should not be posted if they might be construed as encouraging or facilitating members in arriving at any agreement that either expressly or by implication leads to price fixing, a boycott of another's business, or other conduct intended to illegally restrict free trade.* Messages that encourage or facilitate an agreement about the following subjects are inappropriate and are strictly prohibited:

- prices;
- boycotts or refusals to do business;
- discounts or terms or conditions of sale;
- salaries;
- profits;
- profit margins or cost data;
- market shares;
- sales territories or markets;
- allocation of customers or territories; or
- selection, rejection, or termination of customers or suppliers.

**What it means in plain English:** *Any discussion that might be viewed by enforcement authorities as leading to increased prices, decreased competition, or even minimizing discounts, gifts or promotions are problematic.* Even perfectly innocent discussions asking what fees (amount) reporters charge for particular services, whether they charge for a particular ancillary service or whether it is part of the basic page rate, or comments that just praise or denounce the pricing and business practices of others could be construed as a conversation intended to “encourage” or “facilitate” a conspiracy (agreement) to “fix prices,” encourage a “boycott” or otherwise “illegally restrict trade.”

#### **Why do we make such a big thing about antitrust compliance?**

**The penalties for violating federal antitrust laws are severe.** The maximum criminal penalty for violating the Sherman Act is \$1 million for an individual and from \$10 to \$100 million for a corporation (including associations). Under sentencing guidelines, alternative maximum fines can be imposed of up to double the monetary gain realized by the offender or twice the loss to another person.

Individuals and corporate officers who are found guilty of price fixing or market allocation will virtually always be sentenced to jail pursuant to federal sentencing guidelines. Community service cannot be used to avoid imprisonment. The minimum recommended sentence is four months; the maximum is three years.

Additionally, there are civil penalties such as injunctions or cease and desist orders which could result in government supervision of association members, restrictions on association activities or even putting the association out of existence.

Civil suits may be brought by consumers or competitors. Civil antitrust actions result in damage awards and attorneys’ fees. Successful litigants are entitled to triple damages – financial payments of three times the claimed financial harm.

**Defending against an alleged antitrust violation is extremely costly, even if you are entirely vindicated in the end.** NCRA's own history proves this point. Twice in the past, NCRA has had to incur extraordinary legal costs and staff time to defend certain practices even though NCRA eventually prevailed.

The first time, the U.S. Federal Trade Commission challenged NCRA's gift giving prohibition. The FTC argued that the gift prohibition was really just an agreement among competitors not to incur a promotional expense that is common commercial practice – just like if all the airlines got together and decided to stop awarding frequent flyer miles so they could all save money. Although NCRA narrowly prevailed by arguing that gifts by officers of the court trigger unique ethical concerns, the FTC made clear that NCRA cannot discourage volume discounting or restrict other business practices under the guise of ethics. NCRA's gift giving rules and "Ethics First" program are very narrowly crafted and carefully limited to meet possible DOJ or FTC scrutiny.

The second time, the U.S. Department of Justice investigated the NCRA Constitution and Bylaws prohibition blocking voice writers from becoming NCRA members, which the DOJ characterized as a possible restraint of trade. NCRA prevailed on the basis of our superior technology and the fact that voice writers were not kept from getting business by being barred from NCRA membership. Although cleared, the DOJ indicated that future NCRA actions against competitors utilizing non-stenographic technologies could be subject to further challenge.

Once again, although NCRA prevailed in each of these situations, the costs in terms of time and money were extraordinary. (Legal costs from the most recent DOJ investigation were well into six figures; responding to information and document requests consumed a staff person full time for a period of several weeks and additional staff time for a period of more than half a year. And all of that on a case in which NCRA ultimately won on all counts.)

For these reasons, extreme caution must be exercised on the listserv to avoid further antitrust challenges.

Finally, care must be exercised not to rely too much on the so-called Noerr-Pennington doctrine. This doctrine provides some measure of protection for discussions or actions relating to matters that are controlled by government regulations or actions, such as official page rates for court transcripts. However, such protection may not extend to discussions and collusion about charges for ancillary services that are not regulated.

The Noerr-Pennington doctrine can be utilized to protect lobbying communications and litigation positions taken in good faith, but this immunity does **not** extend to discussions about the pros and cons of the underlying business practices or to sharing information that is otherwise prohibited. So, while it is appropriate to share public filings and lobbying positions on a listserv and even to accurately summarize in an impartial manner the allegations in a lawsuit, participants may **not** use the circulation of a public document as a pretext to discuss or share information about their individual business practices or to suggest how others should conduct their business. (When circulating public documents from legal proceedings, care must also be taken to accurately describe claims still under adjudication as allegations, not proven facts.)

**Tough Action by Antitrust Regulators.** In the not-too-distant past, Antitrust regulators have taken a strong stance against what they consider to be anticompetitive activities conducted under an association umbrella. In 2009, for example, a FTC enforcement action came down even harder and more explicitly than prior rulings. The FTC required the National Association of Music Manufacturers to enter into a Consent Agreement and implement an onerous and costly antitrust compliance program that severely curtailed the association's services and operations even though there was no evidence that the membership's discussion ever actually resulted in any agreement or impact on prices. ***Essentially, the FTC stated that, as a matter of law, mere exchanges of information within a profession on pricing, pricing strategies, restrictions on advertising and maintaining the profitability of a profession or industry serve no appropriate, legitimate, defensible or beneficial public purpose, and should be prohibited.*** This suggests that we can always expect stringent and aggressive enforcement, so NCRA and its members must conduct ourselves on the listserv and otherwise in a manner that will withstand such scrutiny.

**Antitrust restrictions and concerns are not unique to court reporting.** These same rules and these same concerns apply to **all** trade associations and professional societies, large and small. The federal government has brought civil or criminal actions against national, state and even local organizations. Enforcement actions have been taken against barbers, farmers, musical instrument sellers, pharmacists, audiovisual companies, and the list goes on. The exposure to legal liability exists on any website or online forum that permits such discussions to go on, whether the list managers are aware of them or not.

**Final Warning.** Just one more time, for emphasis: ***it is the strong position of antitrust regulators that it is illegal for competitors (such as the NCRA membership) to talk about raising prices, maintaining current prices, or even about minimizing discounts, gifts or promotions.*** Under the antitrust laws, such discussions and any resulting collective actions are viewed as hurting consumers, because they cause prices to be higher, for services to be more restricted, and/or for discounts, gifts and promotions to be more limited, than if the discussions and collective actions never occurred. The fact that the competitors who engage in these discussions genuinely feel they need to do so in order to protect their incomes or even to preserve their profession **is no defense.** It just reinforces the view of antitrust regulators that these discussions and collective actions are driven by economic and profit motives, rather than concerns for the public welfare, and are illegal.

For this reason, professional associations like NCRA and its members are well advised to avoid any semblance of activity which might lead to the belief that the association members had agreed, even informally, to something that could have an effect on prices, fees or competition.

So beware. Take the dangers in engaging in such discussions seriously!

### **Conclusion**

NCRA wants its forums and listservs/social media communities to be a safe and pleasant place for reporters to engage in dialogue. Please be sensitive to these concerns and understanding when a gentle reminder gets posted suggesting that a certain line of discussion be dropped. But also be aware that, if all else fails, NCRA reserves the right to terminate access to any user who does not abide by these guidelines -- for their own good and for the good of other listserv/social media community participants and NCRA itself.

## **Illegal Amendments**

Proposed Constitution and Bylaws amendments which are deemed illegal by General Counsel shall not be published to the membership.

## **Ownership of Materials and Information**

Any material or information that may be created, prepared or modified, in my capacity as a Committee member either by myself or with other members of the Committee (Works) are "works made for hire" and are the sole property of NCRA and, therefore, NCRA shall own all right, title and interest in and to the Works, including the entire and exclusive copyrights in the Works.

It is agreed to assign to NCRA ownership of all right, title and interest therein, including but not limited to the entire copyright in the Works. It is agreed to execute all documents, take all actions, and provide assistance as reasonably requested by NCRA to perfect its ownership of the entire copyright to said Works.

### ***If applicable [testing-related committees]:***

Further, I agree not to participate in the development or presentation of any materials, outlines, tests, or courses specifically designed to prepare candidates for any NCRA national certification examination during my term of service and for at least three years after my term of service is concluded. I also agree not to take any test for a period of three years after serving on the committee.

This statement does not preclude the normal faculty activities of academic instruction.

## **SECTION 7: FINANCE**

### **Contracts**

For contracts with a cumulative annual value of \$50,000 or more, NCRA's Executive Director shall obtain approval from the Executive Committee. For contracts with a cumulative annual value between \$30,000 and \$50,000, NCRA's Executive director shall provide the Executive Committee with the opportunity to review and discuss the contracts.

A list of any new or renewing contracts with a proposed increase of 20% or more will be provided to members of NCRA's Finance Committee for review in a timely manner.

All contracts shall require due diligence in seeking RFPs in order to be competitively bid and presented to the Executive Committee accordingly for review and discussion with a cumulative annual value between \$30,000 and \$50,000 (and for approval with a cumulative annual value of \$50,000 or more). This RFP requirement may be waived if there are other ways to determine the suitability and competitiveness of a contract and also in situations where there is long-standing relationship with a vendor or lack of suitable substitute. Any such waiver shall be reviewed and discussed with the Executive Committee at the \$30,000 level and shall be subject to approval by the Executive Committee at the \$50,000 level.

Before an employee is hired or a binding contract is entered into, the Executive Director shall disclose in writing to the Board of Directors any and all prior business or personal relationship with said person or entity. Failure to make written

disclosure will constitute grounds for disciplinary action, up to and including termination with cause of the Executive Director.

Expenditures outside the approved budget must be approved the Board.

## Corporate Credit Cards

1. NCRA corporate credit cards may be distributed to members of the Executive Committee.
2. NCRA Executive Committee members should specify on their credit card receipts the purpose of expenses charged to NCRA corporate credit card accounts (i.e., Board Meeting, Committee Meeting, Task Force Meeting, etc.) prior to submitting the receipts to NCRA.

## Finance Committee

The Finance Committee shall annually review and preliminarily approve the IRS Form 990 prior to the filing deadline on a schedule that provides the Board with sufficient time to review the return, consult with the Finance Committee, and give formal approval, prior to the filing deadline.

## Reimbursement of Member Speakers

### CLVS Council:

Most meeting-related expenses for the CLVS Council to conduct the Production Exam Testing shall be covered by NCRA. Dates for the testing shall be determined by NCRA Staff. All expenses must qualify for reimbursement in accordance with the NCRA Reimbursement Policy.

### Concurrent Seminar and Workshop Presenters (other than program(s) indicated above):

Speakers for Annual Convention that are current members of NCRA will qualify for a complimentary “Seminars Only” registration package. This package does not include tickets for any of the social events. Qualified presenters may request PDCs for presenting at the Annual Convention.

## Travel Expense Reimbursement Policy

It is the policy of the Association, as established by the Board of Directors, to reimburse travel expenses on the basis of necessary and actual expenditures involved. Individuals will only be reimbursed for the reasonable travel that meets the demands of their association business. Additional documentation is required for any travel costs, including but not limited to upgraded seating, first class accommodations, non-association related business, etc., if combined on association expense reports. These costs will be excluded from reimbursement.

**Board and Committee members should not book travel more than six weeks in advance of the start date of an event without prior written approval of the President of NCRA. If such approval is given, reimbursement for any expenses incurred and submitted will not be processed until the six-week period has begun.**

### INSTRUCTIONS

1. Submit this expense report as soon as possible at the conclusion of travel or after expense is incurred. (In order to be reimbursed, you must submit travel expense forms within thirty (30) days.) You may fax, e-mail, or mail your signed report to NCRA, Attn: [Your staff liaison] IMPORTANT: Indicate clearly to whom the check is payable and the address to which it should be sent.
2. All receipts must be sent with the request for reimbursement, including receipts for all hotel and plane or train expenses.
3. Receipts must detail the purpose of the expense and list the individuals involved. In the “Description” column, state brief detail of charge (e.g., dinner with Sam, parking at airport, cab to restaurant, etc.)
4. When traveling on business for NCRA, the following expenses are eligible for reimbursement:
  - a. Single or double room rate and tax
  - b. Internet usage (one connection fee per day)
  - c. Transportation:
    - i. By cab or rideshare.
    - ii. By car at (current IRS mileage rate) per mile; however, reimbursement will be made for the lower cost of either mileage or airfare. The mileage rate does not include parking or tolls, but does include gas and oil. The Association is not responsible for traffic fines or parking tickets.

- d. Breakfast, lunch, and dinner - not to exceed \$70.00 per day
  - e. Any expenses authorized by the President or Executive Director
  - f. Airline Travel – An upgraded seat is acceptable where the charge for luggage is offset by the charge for the economy seat. Most economical rates only (if you elect to travel at a higher rate, you must pay the difference).
  - g. Gratuities
  - h. There is no reimbursement for alcoholic beverages.
5. In the event that a committee meeting adjourns early and members of the committee or Board wish to change their airline reservations for early departure, any additional expense for the airline ticket will be the sole responsibility of the committee or Board member and shall not be reimbursable by NCRA, unless the additional cost is less than any hotel costs avoided by the early departure.
  6. In the event that a committee member or Board member must cancel their attendance at a meeting, NCRA will reimburse the airfare cost to that member due to the following reasons:
    1. Death in the immediate family (parents, siblings, children, spouse).
    2. Serious illness in immediate family (parents, siblings, children, spouse).
    3. Or other extenuating circumstances authorized by the Executive Committee.
  7. When submitting non-travel related expenses via mail or fax, please include a duplicate invoice. The duplicate will be returned with your reimbursement check as an indication of those items covered by the check. Only one set of receipts needs to be submitted.

## Contest Chairs Expenses

Contest Chairs will receive a complimentary ticket to the awards event at the Annual Convention.

## Reserves: Protecting Reserves

Any action by the Board of Directors approving or modifying the annual budget that would result in NCRA total net assets falling below 50% of budgeted annual operating expenses shall require approval by a two-thirds vote of the Board.

## SECTION 8: CERTIFICATIONS AND CONTINUING EDUCATION

### CEU Extension Policy

Individuals can request a four-month extension of their recertification date. These requests are handled by staff and do not affect their three-year certification cycle dates. Individuals may request extensions only once per three-year cycle. Requests beyond four months which are not handled by reinstatement are referred to CAPR. Requests for extensions of time to complete continuing education requirements must be made in writing and accompanied by payment of an extension fee to be set by the Board of Directors and received prior to the recertification deadline.

### Exam Retention

This policy addresses the length of time a mandatory certification requirement is valid towards earning a certification.

Please go to the NCRA website for more information: [www.ncra.org](http://www.ncra.org) / Certification / Certification Test Center / Exam Retention Policy.

### Exam History Reinstatement

The Exam history reinstatement policy allows candidates one additional three-year opportunity from the date of paying the Exam History Reinstatement fee to apply this exam history toward earning a certification.

Please go to the NCRA website for more information: [www.ncra.org](http://www.ncra.org) / Certification / NCRA Reinstatement Policies / Exam History Reinstatement Policy.

## Testing

### Procedures for Cheating on Certification Exams

The following procedures shall be followed in investigating and resolving complaints that an individual has violated NCRA testing policies and procedures during an NCRA-administered test. All proceedings are confidential.

The Council of the Academy of Professional Reporters (“CAPR”) is responsible for investigating all allegations of violating NCRA testing policies and procedures on any NCRA-administered test.

“Executive Director” refers to the Executive Director or his or her designated representative. “Individual” refers to a test candidate, Chief Examiner, or other testing personnel.

#### A. Filing and Investigation of Complaints

1. The Executive Director and the Chair of CAPR have the authority to determine whether CAPR should initiate an investigation into whether an individual violated NCRA testing policies and procedures on an NCRA-administered test based on any credible information received by NCRA. The Executive Director and the Chair of CAPR have the sole discretion to determine if there is a reasonable basis to believe that a violation of NCRA testing policies and procedures may have occurred.
2. Once the decision has been made that CAPR should investigate whether a violation of NCRA testing policies and procedures has occurred, the Executive Director shall forward all information received to CAPR. CAPR will review all the information and determine whether there is sufficient reason to believe that a violation of NCRA testing policies and procedures has occurred. If CAPR determines that there is insufficient evidence to determine whether a violation of NCRA testing policies and procedures has occurred, no further action will be taken by CAPR.
3. If CAPR makes an initial determination that there is sufficient reason to believe a violation of NCRA testing policies and procedures has occurred; the Executive Director shall send a copy of these complaint procedures, along with all of the evidence considered by CAPR and CAPR’s initial determination to the individual.
4. CAPR will send all written communications to the individual by certified mail, overnight express courier or hand delivery. The individual has thirty (30) days from the date of the letter of notification within which to submit a written response to CAPR.
5. CAPR shall keep confidential all records, documents, files and evidence pertaining to a complaint, and proceedings will be closed to the public, except as may be necessary for compliance with these complaint procedures or to take ancillary action with respect thereto, or unless ordered otherwise by a court or agency of competent jurisdiction.

#### B. Proceedings by the Council of the Academy of Professional Reporters

1. When the thirty-day (30) period has elapsed, the Executive Director shall forward the response, if any, to CAPR. CAPR may reach its final decision based on the original information received and the response, if any, or may ask the Executive Director to obtain additional information. CAPR may also grant an opportunity for the individual to be heard either in person or through legal counsel. If CAPR determines there are disputed issues of fact that are material to its decision, it may grant any party an opportunity to present relevant information, including documents and witnesses, and an opportunity to cross-examine the witnesses called by any party. CAPR shall be the judge of the relevance and materiality of any information offered or that it may otherwise consider. Conformity to legal rules of evidence shall not be necessary.
2. CAPR shall thereafter prepare a written decision containing its findings of fact and conclusions. It may invalidate the results for the test associated with the violation. It may also determine that the individual shall be barred from taking any NCRA-administered test for a minimum of three (3) testing cycles or permanently depending upon the nature of the violation.

In addition, if the individual is a member of NCRA, CAPR may recommend that the Member should be expelled or suspended (up to one (1) year) from the Association, or that the Member receive a cautionary letter, warning, reprimand or statement of advice. If CAPR recommends that a member be suspended or expelled from the Association, this recommendation shall not become final unless it is sustained by the Board of Directors in accordance with the Constitution and Bylaws. A CAPR recommendation for suspension or expulsion requires a two-thirds (2/3) vote of the Board of Directors at a meeting at which a quorum is present.

If a reporter’s membership is suspended or revoked for violating NCRA testing policies and procedures, NCRA shall publish that information in the *Journal of Court Reporting* or other NCRA publication, after a decision on a complaint is final.

Should a Member resign his or her membership in NCRA while a violation investigation is pending, CAPR shall complete the processing of the investigation as specified in these procedures.

3. CAPR shall inform all parties as to the status of the investigation within ninety (90) days after the case is received by CAPR from the Executive Director. Normally, CAPR shall render its decision within one hundred eighty (180) days after the case is received by CAPR from the Executive Director. Notwithstanding the above, CAPR may suspend the investigation pending the outcome of any related administrative, civil or criminal proceedings, or for any other reason deemed appropriate by CAPR to ensure fairness or due process for all parties.

#### **C. Appeals**

1. The Executive Director shall promptly send a copy of the decision of CAPR to the individual. If the individual wishes to appeal CAPR's decision, such appeal must be filed in writing to the Board of Directors within 30 days from the date of the letter notifying the individual of CAPR's decision. The appeal must specify the grounds upon which the party contends CAPR's decision is erroneous and should be revised.
2. If no appeal is taken within the thirty-day (30) period from a decision by the Council of the Academy of Professional Reporters, the decision will be final and a copy of the decision will be placed in the individual's confidential file; provided that the Board of Directors shall sustain any decision to suspend or expel a Member in accordance with the Constitution and Bylaws.
3. If an appeal is received within the thirty-day (30) period, the Executive Director shall forward to the Board of Directors the appeal, and all other documentation relating to the matter. The Board may decide the matter on the basis of these documents, or may request any additional information it deems appropriate. The Board may affirm, reverse, modify or return the decision or recommendation to the Council of the Academy of Professional Reporters for further review with specific reasons therefor.

#### **D. Costs and Expenses**

The individual shall bear his or her own costs and expenses with respect to any proceeding, except in regard to an appeal of CAPR's decision. In that case, at the discretion of the Executive Director, the individual shall be required to bear the costs for producing copies of all documents necessary for the Board to review and decide the appeal.

## **SECTION 9: AFFILIATED UNITS**

### **NCSA Guidelines**

#### **I. Purpose**

The purpose of the National Congress of State Associations (NCSA) is to provide a forum for affiliated association leaders to act as ambassadors of NCRA and the court reporting and captioning professions; to exchange information, experiences, and various points of view involving NCRA and the court reporting and captioning professions; and to develop guiding resolutions for consideration by the NCRA Board of Directors. NCSA is to meet at the time of the Annual Conference of the National Court Reporters Association (NCRA).

#### **II. Affiliation Eligibility**

To be eligible for affiliation, an association shall be approved by the NCRA Board of Directors.

#### **III. Organization**

The NCSA body is defined as affiliated unit delegates and/or alternates of affiliated units.

The NCSA body shall be composed of two delegates from each affiliated unit. For purposes of the NCSA Annual Meeting, each affiliated unit may designate two delegates and two alternates. No delegate or alternate shall represent more than one affiliated unit. Each affiliated unit shall have no more than two votes. No representative shall vote by proxy.

The delegates and alternates from each affiliated unit shall be Registered or Participating Members of NCRA in good standing within 30 days of appointment by the state association and at the time of each meeting of NCSA.

Each affiliated unit shall determine, independently of NCRA and NCSA leadership, who shall serve as their delegates and alternates.

During the Annual NCSA Meeting, an alternate may take the seat of a delegate at the delegate's request. In such case, the alternate will remain seated as the delegate for the remainder of the meeting. The original delegate shall remain an alternate for the remainder of the meeting.

Affiliated units shall notify the NCRA Staff Liaison of the names of its delegates and alternates, as appropriate, at least 30 days prior to each meeting of NCSA.

In the event that a state is not represented by an affiliated unit, the NCRA President, in consultation with the NCSA Chair, may appoint delegates-at-large from that state, with such delegates-at-large having a voice, but no vote, at any NCSA meeting.

The NCSA Chair and Vice Chair shall be appointed by the NCRA Board of Directors and shall each serve for a two-year term.

The Immediate Past Chair of NCSA shall serve as an advisor to the current NCSA Chair, Vice Chair, and NCSA Governing Committee. The Immediate Past Chair shall serve in an advisory capacity only and shall have no obligation to attend meetings or actively participate in the day-to-day activities of NCSA, nor shall the Immediate Past Chair be a member of the NCSA Governing Committee.

#### **IV. Meetings**

In consultation with NCRA staff and the NCRA Staff Liaison to NCSA, the agenda for all meetings of NCSA shall be prepared by the NCSA Chair and Vice Chair.

The NCSA Chair and Vice Chair shall, in advance of the Annual NCSA Meeting, contact affiliated unit leaders and request topics of importance to NCRA and its membership, affiliated units, or the profession as a whole.

The NCRA Staff Liaison to NCSA shall notify affiliated unit leaders of the date and time of each meeting of NCSA.

#### **V. Meeting Procedures**

The following meeting procedures shall be followed at each NCSA meeting. "Robert's Rules of Order Newly Revised" shall govern the NCSA Annual Meeting and all other NCSA meetings to which they apply and in which they do not conflict with the policies and procedures adopted by the NCRA Board of Directors.

During topic discussion, affiliated units shall designate one delegate to speak on a topic. Delegates shall yield the floor as appropriate to the NCSA Chair and to fellow NCSA delegates to allow for a free-flowing exchange of ideas and information. The NCSA Chair may recognize, at the Chair's discretion, individuals attending the meeting as observers. Any such supplements to the meeting procedure shall be provided to the delegates, alternates, and/or representatives at least 15 days in advance of the meeting.

The NCSA Annual Meeting room shall have clearly designated areas for the NCSA delegates and alternates, for members of NCRA, and for other registered attendees of the NCRA Annual Convention.

The NCRA Staff Liaison to NCSA shall distribute the minutes of the meeting, within 30 days of its receipt, to the NCSA delegates, the NCSA Governing Committee, the NCRA Board of Directors, and the affiliated units. The minutes may be made available to any other party at the discretion of the NCSA Chair and the NCRA President.

The NCRA Staff Liaison to NCSA shall receive and validate the credentials of the NCSA Annual Meeting delegates and alternates, maintain a continuous roll call, and report these totals to the NCSA Chair as the meeting commences.

#### **VI. Resolutions Procedures**

In an effort to best serve the NCRA membership and profession, affiliated units may submit resolutions to be considered by the NCRA Board of Directors at any time throughout the year.



Resolutions shall be written in a clear and concise manner, containing one single topic. Resolutions should relate to the following areas for information and discussion purposes:

- Types of problems experienced at the national, state and/or local level and constructive suggestions for assistance from NCRA;
- Types of assistance affiliated units feel are needed from NCRA;
- Suggestions for increasing professionalism among verbatim stenographic reporters and captioners.
- Suggestions and ideas for strengthening the profession;
- Suggestions for improving ongoing programs in NCRA;
- Positive experiences and programs which have proven beneficial to affiliated units.

### **Submission**

All resolutions, and any amendments thereto, shall be submitted on a resolution form supplied by the NCSA Chair, Vice Chair and/or the NCRA Staff Liaison to NCSA. A full rationale shall be stated in support of any proposed resolution. A NCSA resolution shall be submitted to the NCSA Chair, NCSA Vice Chair and/or the NCRA Staff Liaison to NCSA. The NCSA Chair may modify any resolution with minor editorial changes, provided the changes do not alter the intent.

All resolutions submitted by an affiliated unit shall be signed by the President of the affiliated unit and approved by the Board of Directors of the affiliated unit.

All resolutions submitted by the NCSA Governing Committee shall so indicate. No signature shall be required.

Members of NCRA who wish to have resolutions introduced to NCSA shall request sponsorship/submission of the resolutions by an affiliated unit or by the NCSA Governing Committee. Neither an affiliated unit, nor the NCSA Governing Committee, shall be required to sponsor/submit any such resolution.

When two or more resolutions are submitted having the same intent, the NCSA Chair may prepare a composite resolution. Each of the submitting affiliated units shall be identified on such resolutions.

The NCSA Governing Committee shall organize all resolutions in subject classifications as follows: Accreditation; Certification; Continuing Education; Ethics; Financial Affairs; Governance; Government Affairs; Membership; Member Affairs; Professional Issues; Public Relations; Publications; Reporter Training; State/National Relations.

### **Discussion and Outcome**

When a resolution is submitted, the NCSA Chair will notify the NCSA body of the submitted resolution within one week. The NCSA Chair shall be responsible for initiating and overseeing discussion as to a resolution on an online email listserv dedicated to affiliated unit leadership.

The NCSA body shall have two weeks from the date the NCSA Chair submits the resolution for discussion on the affiliated unit leadership listserv.

Within two weeks after the close of discussion of the resolution by the NCSA body, the NCSA Chair, in consultation with the NCSA Vice Chair and the NCSA Governing Committee, shall submit a summary of the discussion to the NCRA Board of Directors for its consideration. Should the discussion period result in changes or amendments to the resolution that the Governing Committee determines to be more than minor edits, the Committee may request approval of the changes by the sponsoring affiliate. The affiliate may approve the edits, withdraw the resolution, or instruct the Committee to submit the resolution as originally presented.

The NCRA Board of Directors will address submitted resolutions no later than the next in-person board meeting, provided that the resolution is submitted more than forty-five (45) days in advance. Submitted resolutions can also be addressed by the Board of Directors before the next in-person board meeting at the discretion of the NCRA President.

Within two weeks of the Board of Directors acting on a NCSA resolution, the NCSA Chair shall be responsible for notifying the NCSA body of the Board's decision, the rationale behind the decision, and, if necessary, a timeline documenting implementation. In the case of a Board decision via email, the NCSA Board liaison shall notify the NCSA Chair and Vice Chair of the Board's decision, the rationale behind the decision, and, if necessary, a timeline documenting implementation.

## VII. Notification

Delegates shall be informed of submitted resolutions through NCRA's affiliated unit leadership listserv and this shall satisfy any guidelines for dispersing information to NCSA members, delegates, or the NCRA board.

## VIII. NCSA Governing Committee

### Composition

The NCSA Governing Committee shall be composed of the NCSA Chair, NCSA Vice Chair, and seven appointed regional representatives. To ensure even geographic representation, an appropriate regional map consisting of seven regions shall be established by the NCRA Board of Directors. Each of the seven regions of the NCSA Governing Committee will be represented by one NCRA Registered or Participating member who lives or works in that region. The regional NCSA Governing Committee members shall be appointed by the NCRA Board of Directors. The NCRA Executive Director shall appoint an NCRA Staff Liaison to NCSA.

Each NCSA Governing Committee member shall serve a two-year term, with staggered terms to ensure continuity of committee membership.

### Duties and Responsibilities

The duties of the NCSA Governing Committee shall be:

- To fulfill their charges as approved by the NCRA Board of Directors;
- To facilitate meaningful and productive discussions in the interest of their appointed regions;
- To respond to regional requests and provide a direct link between the affiliated units represented and the NCSA body;
- To issue a quarterly report to the NCSA Chair and Vice Chair on topics of ongoing discussion within their region, including possible recommendations for NCRA to better serve its affiliated units and members. The NCSA Chair shall compile and disseminate these reports to the NCSA body via email listserv so that discussions are documented and affiliated units are informed of regional discussions;
- To recommend to the NCSA body an appropriate course of action on matters which have been placed before it, including evaluating and making recommendations to the NCSA body on all resolutions which it has received from the affiliated units, using the best information and advice available, and making its decision in the best interests of the verbatim stenographic reporting and captioning professions;
- To assist the NCSA Chair and Vice Chair to develop NCSA-sponsored programs and/or meetings throughout the year;
- To attend any meetings called by NCSA if requested to do so by the NCSA Chair and/or Vice Chair and to perform any other duties assigned by the NCSA Chair and/or Vice Chair.

The NCSA Governing Committee must act within the NCSA Guidelines and within the framework of NCRA's Constitution and Bylaws. It may call upon the NCRA Board of Directors, NCRA committee and task force members, and members of NCRA staff when it desires to gain information necessary to fulfill its duties.

Based on conversations with affiliated units, the NCSA Governing Committee may advise the NCRA Board of Directors as to a desired action which would benefit NCRA members, affiliated units and/or the court reporting and captioning professions as a whole.

## IX. Listservs

The NCSA Governing Committee shall supervise listservs and other means of communication as directed by the NCRA President. In order to be a part of any listserv associated with NCSA, the individual shall be a Registered or Participating Member of NCRA in good standing. All listserv participants shall be familiar with and abide by the "NCRA Listserv Rules and Etiquette."

## **Criteria for Considering Applications for Affiliation in States Where Multiple Affiliated Units are Permissible**

1. The subject affiliate has its focus on, and draws membership from, a statewide basis. Applicants from a smaller regional or specialized focus would not fit the meaning or spirit of "state associations" as currently defined in the NCRA Bylaws.
2. The subject affiliate opens its membership to all verbatim stenographic reporters\*. The spirit of affiliation of "state associations" would inherently be inclusive to all stenographic reporters within a state.
3. The subject affiliate must offer an educational opportunity at least once per year for its members to earn NCRA CEUs. This helps present an applicant as an engaged participant consistent with the purposes and goals of NCRA.
4. The subject affiliate must be current in its standing as an entity with the applicable state agency. The subject affiliate should be, and remain, a viable association and legitimate entity.

\*Some associations offer membership to reporters outside the association's area of specialty only on a nonvoting (e.g., associate) basis. No distinction between voting or other membership is made under this criteria, although the NCRA Board is discomfited with the notion that an affiliate can be discriminatory in its membership with regard to stenographic reporters.

## Partnerships with Affiliated Units

NCRA will not enter into any contractual risk and/or revenue-sharing partnerships with a state affiliate for any NCRA major meetings. However, NCRA may provide the host affiliate(s) space outside of the exhibit hall for display and informational purposes.

## Services Available to Affiliated and Non-Affiliated Units from NCRA

1. NCRA's Constitution and Bylaws currently directs that NCRA can only recognize one affiliated unit in each state with limited exceptions (see Article XVI, Section 3a). However, affiliation does not restrict NCRA from providing key benefits to other statewide and local associations. The following list explains the many benefits and services that are available to state and local reporting associations. Services or benefits that differ for a nonaffiliated association compared to an affiliated association are designated with an asterisk.
2. **Representation on National Congress of State Associations (NCSA)\***  
Each affiliated unit may appoint two delegates and two alternates to NCSA. Each affiliated unit may have no more than two votes on NCSA. In addition, delegates-at-large who represent states that are not affiliated, with a voice but no vote, may be appointed by the President to serve on NCSA. The NCRA Constitution and Bylaws govern these terms.
3. **Participation in NCRA's directors and officers professional liability insurance policy\***  
Affiliated associations are provided with voluntary participation, contingent upon paying an annual premium. All participating affiliate units are covered under a single policy, subject to a limitation of \$1,000,000 in coverage per claim and \$3,000,000 annual aggregate. The deductible is \$2,500 per claim.
4. **Listing on NCRA website and publications**  
A listing on the "Reporter Associations" section of NCRA's website is available to all statewide reporting associations upon request. Affiliated units are clearly distinguished from nonaffiliated units.  
State organizations are encouraged to include complete listings of regional, county and other reporting organizations within their state, so new or potential members browsing through the national listings to a state website will have access to this information.  
Annual meetings of both affiliated and nonaffiliated units may be listed on NCRA's website interactive meetings calendar.
5. **JCR advertising**  
All reporting organizations may advertise in the magazine, as long as they adhere to NCRA's Advertising Policy. Discounts are available based on multiple-issue commitments.
6. **Member prospect lists**  
Prospect lists are shared with individual state associations on a reciprocal basis. Lists are distributed in an Excel format with name and address.
7. **Access to NCRA staff experts**  
Assistance and support are provided to individual members (regardless of state membership) and affiliated groups, primarily via telephone and e-mail, on such issues as association law, lobbying, statistics, publishing, ethics, etc.

8. **Tabletop exhibit at major NCRA meetings, when held in association's state**  
Depending upon the available space, statewide organizations will be provided with a single table. NCRA has discretion as to where the tabletop will be placed.
9. **NCRA representatives at state conventions**  
Both affiliated and nonaffiliated groups may request an NCRA representative for a convention, based on scheduling and availability; however, all requests cannot always be accommodated.
10. Association 101 Manual

## SECTION 10: OTHER

There are no policies at this time which fall under Other.

## SECTION 11: POSITION STATEMENTS

### Attorney Responsibility for the Court Reporting Fees

NCRA advocates that attorneys are liable for court reporting fees unless they expressly disclaim liability in advance. This policy conforms with the modified agency rule adopted in the majority of states with respect to court reporting fees that takes into account custom and usage and modern litigation practices in which attorneys, rather than their clients, handle and maintain control over all aspects of litigation, including hiring the court reporter and other expert services.

### Communication Access Realtime Translation (CART)

#### Providing Quality CART Services

NCRA has, since its inception, advocated the highest standards possible with regard to professionalism, continuing education, and certifications to ensure that clients and consumers receive the services they need from skilled and knowledgeable practitioners. NCRA will continue to advocate this position well into the future in order to ensure the integrity of the profession and protect those individuals who depend on the services that only a qualified captioner can offer. Therefore, the goal of all captioners is to provide the highest quality CART possible, taking into account NCRA's Guidelines for Professional Practice, which state: "Accept assignments using discretion with regard to skill, setting, and the consumers involved, and accurately represent the provider's qualifications for CART."

NCRA strongly believes that only qualified captioners should offer communication access services to ensure that consumers receive the level of service required by the Americans with Disabilities Act. If a qualified captioner is not available locally, then remote CART should be considered, again with the primary goal of ensuring that a qualified provider is identified who can meet the communication access needs of the consumer or group. Students should not provide CART services, as poor service has a negative effect on the profession and, more importantly, on the consumer. High-speed students should only provide CART captioning services under the tutelage of a trainer or through an established internship program. Students should not offer their services until they've graduated from or successfully completed a court reporting program and have had specialized training in providing CART services.

NCRA recognizes that in certain situations an internship may not be possible or a qualified CART captioner may not be available to provide the necessary services. In such instances, neither students nor schools are to be compensated for CART services.

#### Misidentification of CART Services

NCRA believes that all individuals in need of communication access services should have the right to select what method will best meet their needs. Communication Access Realtime Translation or realtime captioning, as performed by a realtime reporter, offers the only current method for providing verbatim, immediate voice-to-text translation for those people requiring communication access. Some operators of non-verbatim note-taking methodologies have begun to describe their services as CART. This mischaracterization confuses the services offered and endangers the consumer's ability to receive the service, not only requested but required, for full and effective communication access. Moreover, this flagrant misidentification of the services that an individual can legitimately provide is a clear violation of the trust of

those individuals in need of communication access assistance. Therefore, NCRA believes that only those individuals who can provide a verbatim, immediate voice-to-text translation can legitimately describe themselves as Communication Access Realtime Translation (CART) providers or realtime captioners.

## Ensuring the Confidentiality and Security of Outsourced Transcription

NCRA supports effective and reasonable law, regulation and standards that protect the accuracy, privacy and security of legal and medical transcription work.

The practice of outsourcing the transcription of court and medical information is growing, driven by the desire for increased productivity and economy. As ‘guardians of the record,’ NCRA members and the court reporting profession as a whole have traditionally and historically placed the highest value on the accuracy, impartiality, security and confidentiality of the records they are creating. While recognizing the need for efficiency and the client’s legitimate desire to manage costs, ensuring the confidentiality and security of the information contained in the records that court reporters and health professionals create remains a fundamental and inviolable obligation. Whenever, during the process of creating the record, the work in progress leaves the custody and control of the court reporter him- or herself, the accountability for the security and confidentiality of its contents and compliance with all applicable laws in the jurisdiction pass with it to the scopist, proofreader, transcriptionist, production facility, or whomever. In particular, once content has gone outside the borders of the United States and is being prepared by individuals overseas, concerns are raised as to whether the same level of security that Americans are afforded domestically will be provided abroad to protect that confidential information.

NCRA notes that various jurisdictions already have laws or regulations in place to regulate, restrict or even prohibit the outsourcing of judicial transcriptions. NCRA supports full compliance with and effective enforcement of such statutes and the creation of additional law, regulation or standards that effectively and reasonably ensure the security of confidential judicial records.

## Third-Party Contracting

### Disclosure Obligations

1. A court reporter shall always disclose to all parties present at a deposition the existence of any direct or indirect contracting relationship with any attorney or party to the case, so that the other parties may exercise their rights under Rules 28(c), 29 and 32(d)(2) of the Federal Rules of Civil Procedure, and comparable state and local laws, to object to the taking of the deposition because of the possible disqualification of the court reporter. This disclosure shall include the identity of all principals and agents involved in the contracting group as well as a description of all services being performed by such court reporter, his or her employer, or any principal or agent of the contracting group. It is the court reporter's obligation to make reasonable inquiries and ascertain this information before accepting any assignment.
2. A court reporter shall always offer to provide comparable services to all parties in a case. However, nothing in this policy is intended to allow court reporters to directly or indirectly exchange information with competitors about the prices they charge, or to discourage in any other way competition in the services offered or prices charged by court reporters.
3. A court reporter shall not, in act or appearance, indicate that the court reporter is participating as part of an advocacy support team for any one of the parties.
4. A court reporter shall always comply with federal, state and local laws and rules that govern the conduct of court reporters (such as those that deal with certification, confidentiality and custody of transcripts, and contracting).

### Policy in Support of Enactment of Anti-contracting Laws or Regulations

Whereas, NCRA has long been concerned with the practice under which court reporters enter into contracts for court reporting services. The basis of this concern arises from ethical rules and laws that require reporters to maintain impartiality and independence in their capacity as officers of the court.

Whereas, in 1995, after review by the United States Department of Justice, NCRA issued a Contracting Disclosure Policy. This Contracting Disclosure Policy requires a court reporter to disclose to all parties present at a deposition the existence of any direct or indirect contracting relationship with any attorney or party to the case. The Contracting Disclosure Policy also requires a court reporter to offer comparable services to all parties in a case and prohibits a court reporter from acting or appearing to act in any proceeding on behalf of any one of the parties.

Whereas, NCRA also has issued several Advisory Opinions which address aspects of certain contracting arrangements under NCRA's Code of Professional Ethics.

Whereas, NCRA's members and affiliated organizations increasingly have expressed their concern about contracting and have contacted NCRA to request information and assistance on methods and means by which they can access legislatures and governmental rule-making bodies in order to lobby for legislation, regulations and/or rules to limit or prohibit contracting arrangements.

Whereas, a number of states have enacted or are considering laws or court rules that limit or prohibit contracting arrangements, or require full disclosure to all parties of the existence of such contracting arrangements.

Whereas, NCRA believes that such laws and court rules are the best way to address the ethical and legal problems raised by contracting arrangements.

Now, therefore, it is MOVED, seconded and carried that NCRA lobby at the state and federal level and work with its affiliated organizations and coalitions at the state level to seek the enactment of laws and court rules that will limit or prohibit contracting arrangements in order to maintain the impartiality and independence of court reporters in their capacity as officers of the court.

NCRA will refrain from providing public testimony.

## **Affirming the Role of and Need for the Official Reporter**

Budget crises in many of the nation's courts have increased the pressure to reduce the number of qualified reporters or replace them with alternative record-making methodologies. Put simply: in times of economic challenge, concerns over funding often take precedence over concerns regarding the quality and accuracy of the record.

NCRA believes that adopting such a limited perspective risks not only the production of an accurate, complete, and secure record of the proceeding, but also the efficient functioning of the judicial process and access to the courts for American citizens. Therefore, decisions regarding the best method for making the record must be based on the court's larger goals and customer needs.

Court reporters are experts at gathering information and preserving it in formats that are quickly accessible and readily usable. They have played a critical role in bringing state-of-the-art technology into the courtroom. Clearly, realtime computer technology when applied by a highly trained and skilled individual enhances the value of the record. These 'Guardians of the Record' offer the only method for immediate voice-to-text translation via realtime technology, thereby providing counsel and the judge with instant access to the transcript during the proceedings and ensuring a faster and more efficient judicial process. The same technology provides greater access to the justice system for the more than 28 million U.S. citizens who are deaf or hard of hearing. Having the transcript immediately available in digital form puts key information where it is needed, when it is needed. As a result, the role of the official court reporter has changed from making a record for appellate review to managing a multipurpose system that provides online data for lawyers and other legal professionals.

NCRA advocates that realtime court reporters offer the best, most accurate, most efficient means (human or technological) and best proven and most widely available method for reliably and instantly capturing and integrating the spoken word into a comprehensive and accurate information base. This capability is critical to the swift, fair, and accurate operation of justice. Therefore, the nation's courts should take every opportunity to make use of the skills and services that only a realtime court reporter can offer to the judicial system.

## **Transcript Repositories**

The National Court Reporters Association (NCRA) is well aware of the growing number of online transcript repositories. These Internet sites market themselves as a way for attorneys, and in fact the general public, to obtain and read transcripts from proceedings other than those with which the attorney is involved. Many of these online repositories offer attorneys access to the transcripts for free or at a reduced rate in exchange for attorneys submitting to the repository copies of transcripts the attorneys have purchased in the course of their practice.

These repositories are distinct from websites sites operated by state and federal courts through which parties in interest or the public can access copies of court documents. The court-operated website only contain public documents, in that they have been filed with a court, and therefore the parties have no expectation of privacy. Furthermore, in most instances the courts have redacted private and confidential information from these documents.

NCRA is concerned about these private online repositories for several reasons. First, NCRA members are prohibited from selling copies of transcripts that are not public record (e.g., deposition transcripts that have not been filed with a court) to persons unrelated to the proceeding without first obtaining permission from the parties and the deponent. Reporters

are entrusted by the parties to keep information secure and cannot violate that ethical duty without explicit permission to do so. The parties and witnesses have the expectation that the information will be kept secure by the reporter. Ignoring such a safeguard places private information at risk, potentially allowing anyone to make use of the data for inappropriate and/or illegal uses via these repositories.

Additionally, when a transcript contains private information, such as social security numbers and names of minor children, many courts have implemented a procedure whereby the parties instruct the reporter before the transcript is filed in court to redact that private information. If an attorney submits a transcript to a transcript repository that hasn't gone through that redacting procedure, there is risk of great harm to the involved parties with the release of that personal and confidential information.

Court reporters have long been vexed by the issue of attorneys sharing transcript copies with fellow attorneys on the same case, as reporters rely on transcript copy sales as part of their income. Moreover, as federal and most state laws identify, reporters have the right to be fairly compensated for production and distribution of the transcript.

However, the issue of compensation pales in comparison to the dangers associated with the unauthorized and unregulated posting of transcripts containing private and confidential information to the Internet via online repositories. For these reasons, NCRA believes that such distribution via online repositories should be prohibited unless the following guarantees are offered:

1. Private and confidential information as identified by current federal guidelines has been redacted from the transcript.
2. Only those transcripts that have been made part of the public record, either through filing with a court or through the permission of the parties and the deponents, are posted online.
3. The posting party has confirmed that such a practice does not violate local rules and regulations governing the terms and restrictions on the distribution of transcripts.

## **NCRA Statement re Electronic Filing of Court Documents and Transcripts**

Electronic access to court records is an issue that court reporters have managed for years. As guardians of the record, judicial reporters have the task of maintaining the accuracy and ensuring the security of the official court transcript. Moreover, adhering to the instructions of the court, official reporters manage much of the information distributed to the public. The parties involved often painstakingly scrutinize these documents, and copies are also demanded by legions of journalists and often hotly pursued by members of the public, the legal community, and even collectors.

The National Court Reporters Association (NCRA) applauds current efforts on the federal and state level to allow for electronic access to court records and looks forward to the role court reporters can play in facilitating the process. The value court reporters bring to the court system is to provide litigants and participants with accurate, detailed information about the trial in a way that is quick, convenient, and cost-effective. The reporter's computer-based transcripts are a natural fit for today's web-based court document management systems.

Nevertheless, there are many issues that must be addressed when considering the adoption or implementation of electronic filing as a way to enhance the efficiency of the judicial system and provide public access to court documents.

NCRA believes that ensuring the public's right to access court records must be balanced against the right to privacy of the parties and public safety. Before an e-filing system is implemented, there must be a process in place to ensure that key information, such as that identified in the United States Judicial Conference's policy on redaction, is excluded from the publicly accessible document. Moreover, it should be the responsibility of the parties and/or attorneys to identify the information to be redacted, and the responsibility of the court reporter to redact that information from a transcript.

Ensuring the security of the information once filed electronically is also of paramount concern. First, only a certified transcript should be incorporated into an e-filing system. Second, with continuing advances in technology and the ability of outsiders to gain illegal access to protected computer systems, the entity facilitating e-filing access must provide a method to ensure that a certified transcript cannot be altered once it is accessed electronically and that any attempt to alter an electronic document can be easily identified.

In addition, the court's compensation system must take into account the fact that individuals who wish to obtain a copy of the transcript will no longer be required to go through the reporter, but are now able to obtain the copy electronically. Most official reporter compensation systems are based on the expectation that the reporters' compensation package includes transcript original and copy sales, as those transcripts are produced with reporter-owned equipment and supplies, often outside of standard work hours. Therefore, NCRA believes that a reporter must either be paid for copies of transcripts accessed through the e-filing system or otherwise compensated for copy sale income lost as a result of electronic filing of transcripts.

## **Certified Legal Video Specialist**

NCRA strongly recommends the use of a Certified Legal Video Specialist (CLVS) to ensure the integrity of both the videotaped legal proceedings and the utilization of the electronically recorded media. A CLVS has been trained on the professional standards, ethics, and responsibilities of creating and maintaining the record.

## **Anonymous Communications**

The National Court Reporters Association (NCRA) has set forth a code of conduct and response policy in the management of Internet and social media "trolls" - individuals who make false statements, forge complaints, or threaten individual members, leaders, or staff using Internet platforms or by posting website comments or engaging on social media.

NCRA will not engage with Internet trolls who use a false name. As anonymous trolling has at its core the goal of generating a response from its target, lack of a response statistically is the best tactic for deflating the activities. Likewise, engaging with anonymous trolls may result in more significant damage to NCRA's members, volunteers, and staff as well as its ability to serve its members.



## **APPENDIX**

### **Stand-alone Policies**

The appendix consists of a listing of various policies that are not included in the PDF version of the Policies and Procedures Manual. These policies may be found on the NCRA website.

#### **POLICIES FOUND ON NCRA WEBSITE**

- Board of Directors Job Descriptions
- Code of Professional Ethics
  - Member
  - Captioner
  - Certified Legal Video Specialist
  - Ethics First
  - Advertising
- COPE Guidelines for Captioners
- Council on Approved Student Education: General Requirements and Minimum Standards
- Credential Reinstatement Policy for all NCRA certifications
- Investment Policy Statement, Objectives & Guidelines
- Social Media Policy
- Website Privacy Policy

#### **MAINTAINED DOCUMENTS**

Strategic Plan

#### **POLICIES THAT REQUIRE SIGNATURE**

##### Board and Committee\* Policy Agreement

- Ownership of Materials and Information
- Board Standards of Ethical Conduct
- Confidentiality
- Conflict of Interest and Duality of Interest Disclosure Statement
- Antitrust Policy
- Assumption of Risk and Waiver of Liability
- Conflict of Interest for Selection Committees\*\*

*\*Committees also refer to Councils and Task Forces.*

*\*\*Committees only*