



DEPARTMENT OF CONSUMER AFFAIRS
COURT REPORTERS BOARD
OF CALIFORNIA

2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833
Phone (916) 263-3660 / Toll Free: 1-877-327-5272
Fax (916) 263-3664 / www.courtreportersboard.ca.gov



COURT REPORTERS BOARD OF CALIFORNIA
MINUTES OF OPEN SESSION
APRIL 4, 2024

CALL TO ORDER

Ms. Denise Tugade, Chair, called the meeting to order at 9:00 a.m. The public meeting was held at Department of Consumer Affairs, HQ1 Hearing Room, 1625 North Market Boulevard, Sacramento, CA 95834 and via a teleconference platform.

ROLL CALL

Board Members Present: Denise Tugade, Public Member, Chair
Robin Sunkees, Licensee Member, Vice Chair
Laura Brewer, Licensee Member
Michael Dodge-Nam, Public Member
Arteen Mnayan, Public Member

Staff Members Present: Yvonne K. Fenner, Executive Officer
Helen Geoffroy, Board Counsel
Steven Vong, Regulations Counsel
Paula Bruning, Executive Analyst

Board staff established the presence of a quorum.

1. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Tara Ocana, student, requested the Board consider for a future meeting the topic of a non-proctored system for the dictation exam.

Mikey McMorran, CSR, requested the Board consider for a future meeting the matter of court reporters in California taking depositions where the venue is in other states. He would like to have further direction or a best practice for the issue.

2. REVIEW AND APPROVAL DECEMBER 13, 2023, MEETING MINUTES

Ms. Brewer provided amendments to the minutes.

Mr. Dodge-Nam moved to approve the minutes as amended. Ms. Brewer seconded the motion. Ms. Tugade called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Ms. Sunkees, and Ms. Tugade
Opposed: None
Absent: Mr. Mnayan
Abstain: None
Recusal: None

MOTION CARRIED

3. DEPARTMENT OF CONSUMER AFFAIRS UPDATE

Judie Bucciarelli with the Department of Consumer Affairs (Department/DCA) provided a Department update.

Ms. Bucciarelli congratulated the Board for its hard work and dedication to the Sunset Review hearings and process. She commended the Board for its consumer protection efforts.

She provided an important update relating to federal Title IV funding, which may affect California court reporting students. She indicated that as of July 1, 2024, the U.S. Department of Education will limit programs to the state's minimum requirements and noncompliant programs exceeding the minimum hour requirement will not be eligible for the Title IV funding. The Department is working to get clarification if a delayed implementation plan is an option and update Board staff as information becomes available.

She informed the Board that the Department will hold its next DEI Steering Committee meeting on April 5, 2024, to discuss DEI actions priorities, and language access. Courses related to DEI are available to Board members through the Department's Learning Management System.

Ms. Bucciarelli shared that DCA's Office of Public Affairs will participate in two outreach events hosted by the Consulate of Mexico during its Financial Education Week. During the Facebook live events, staff will present information in Spanish to share an overview of consumer and licensing resources.

She indicated that DCA will be developing workforce development outreach opportunities for all boards and bureaus to participate in. More information will be shared once available.

Updated guidelines have been developed for complaint prioritization and referral for the healing arts boards. Revised guidelines for the non-healing arts boards are in progress.

Ms. Bucciarelli thanked the Board and staff for helping to achieve compliance with the Form 700 filing requirements.

Ms. Tugade called for public comment. No comments were offered.

4. REPORT OF THE EXECUTIVE OFFICER

4.1 CRB Budget Report

Ms. Fenner provided a review of the Board's budget and referred the Board to page 24 of the Board agenda packet for the expenditure projections for Fiscal Month 7. She referred to the Board's overall fund condition on page 25 of the Board agenda packet. She indicated that a transfer of \$200,000 to the Transcript Reimbursement Fund (TRF) was projected in Fiscal Years 2025/26 and 2026/27.

In Fiscal Year 2026/27, the Months in Reserve is projected to approach the six-month threshold that stops transfers to the TRF. More details regarding the fund would take place during the fee cap increase discussion of Agenda Item 5.

4.2 Transcript Reimbursement Fund

Ms. Bruning reported statistics for the 2023/24 Fiscal Year. She stated that the TRF paid out more than \$58,000 for pro bono cases covering more than 100 applications. She added that over 300 applications had been processed for pro per cases, with \$24,000 paid and an additional \$40,000 provisionally approved and awaiting final invoices.

Mr. Dodge-Nam inquired about the number applications pending. Ms. Bruning indicated that there are many applications either awaiting review or in suspense for deficiencies. This includes requests totaling more than \$78,000 for pro bono cases and \$100,000 for pro per cases.

4.3 Enforcement Activities

Ms. Fenner referred to the enforcement statistics starting on page 27 of the Board agenda packet. She indicated that there are no new trends to report – the most typical complaints continue to be regarding accuracy of the transcript and timeliness of delivery.

4.4 License Exam

Ms. Fenner indicated that the overall exam statistics began on page 31 of the Board agenda packet. She shared that there was an unfortunate delay to the March 2024 dictation testing cycle due to an unavoidable delay with the contract with Realtime Coach. There are many checks and balances built into the state accounting system, which can be quickly impacted if even one department is short-staffed. She expressed her appreciation to Christine Lally with DCA Board and Bureau Relations, who helped facilitate the contracts movement through the process.

The current testing cycle opened on March 25 and remains open until April 15.

She stated that 134 applications for the exam were received of which 54 are first-timers. There are 44 voice writing candidates, 32 who are taking the test for the first time.

Ms. Fenner referred to the Exam Statistics by Reporting Method report on page 37 of the Board agenda packet, which is specific to the dictation exam. The report compares the pass rate for steno writers to voice writers. She added that the Board has licensed 42 voice writers to date.

The Board thanked staff for the reports and expressed excitement for the uptick in candidate success on the exams.

Mr. Dodge-Nam asked if the trends give any indication that the numbers will continue to grow. Ms. Fenner responded that based on increased school enrollment and license exam applications she believes the growth will continue, particularly for voice writers.

Ms. Fenner referred to the statistics for the two written portions of the license exam, English and Professional Practice, which appeared on pages 33 through 36.

4.5 Technology Modernization

Ms Fenner reported that staff continues to meet with the development team daily. The data conversion and testing process is continuing with a spring production release as its goal.

The new system will be fully online. All applicants and licensees will need to register for an online account. Candidates will apply online for the exam and later for their license. All reporters will renew their license via their online account.

Ms. Fenner once again expressed appreciation to staff for their many hours spent assisting the developers to understand the Board's business processes.

5. FEE AND FEE CAP INCREASE

Ms. Fenner indicated that Issue Number 2 of the Sunset Review Background Paper from the Legislature pertains to the fiscal solvency of the Board. She stated that staff has been working the DCA budget staff on the issue and referred to the chart on page 39 of the Board agenda packet for information to assist the Board on its decision-making. There is not a current need to increase actual fees being charged; however, the Board should consider amending the fee caps. The chart reflects the fees that the Board currently charges, the statutory caps on those fees, and the actual cost in staff time for each action. The chart also includes a column for examples of proposed fee caps.

A similar chart reflecting the revenue generated by those fees was included on page 40 of the Board agenda packet. The first column reflects the number of times each fee is charged. The subsequent columns show what the revenue would look like for each fee type.

Finally, page 41 is an extended view of the Board's fund condition which includes the transfers to the TRF. The spreadsheet, using the example proposed fees, shows the Board being able to fund the TRF as well as do the Board's business for the next decade.

Ms. Fenner returned the Board's attention to the chart on page 39 and requested consideration for revised fee caps. She stated that the necessity for some fees, such as change of address and duplicate license, would likely go away as the Board transitions to its new online database where users will be able to change their address as well as print their own license. The Board would also want to avoid creating any barriers to licensure when changing fee caps such as application for examination.

Ms. Tugade commented that taking on this discussion alongside the sunset review process was an important step in the Board's fiscal health and future planning. She suggested the Board view fee caps as the ceiling rather than immediate implementation.

Ms. Brewer commented that the Board appears to be losing money with every service. She compared the Board's application and exam fees to those charged by the national associations. She and the other members agreed with and supported fee cap increases for fiscal solvency.

Mr. Dodge-Nam proposed the Board subsidize some of the initial candidate fee caps with the annual renewal fee caps for individuals and firms. Ms. Sunkees suggested the Board consider increasing the fee caps further to compensate for inflation in workload costs over the next ten years. Ms. Fenner commented that the Board should consider the workload analysis as a basis for proposed fee caps. She stated that the budget staff built in future costs at a three percent increase annually on the fund condition statement.

Ms. Sunkees moved to instruct staff to work with Board counsel and the Legislature to amend Business and Professions Code 8031 to increase fees to the numbers listed in the last column on page 39 of the Board agenda packet. Mr. Mnayan seconded the motion. Ms. Tugade called for public comment.

Sheena thanked the Board for considering all the costs candidates incur during its discussion of the fee caps.

Stacy Gaskill, CSR, supported the comments made in favor of increasing annual renewal fees instead of impacting exam candidates.

Mr. Dodge-Nam considered the overall revenue that would be generated by an increase of annual fees and determined that the analysis as presented would allow for keeping exam fees low.

A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Mr. Mnayan, Ms. Sunkees, and Ms. Tugade

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

The Board took a break at 10:18 a.m. and returned to open session at 10:36 a.m.

6. LEGISLATION

Ms. Fenner stated that information regarding the bills the Board is tracking during the two-year legislative cycle could be found beginning on page 42 of the Board agenda packet. None of the bills are active any longer.

She reported that after the production of the Board agenda materials, one new bill was added to the watch list – AB 3013 (Maienschein). This bill would establish a series of pilot projects in a number of the county courts for remote court reporting.

6.1 AB 477 (Waldron) – No discussion.

6.2 SB 662 (Rubio) – A copy of the Board’s letter of opposition was included on page 43 of the Board agenda packet.

Mr. Dodge-Nam asked if the letter of opposition had any impact on the status of the bill. Ms. Tugade responded that she suspects there was some impact as the opposition letter was submitted prior to the bill being sent the Senate Appropriation Committee where the bill was held under submission.

6.3 SB 802 (Roth) – No discussion.

7. REGULATIONS

Title 16, Section 2420, 2422, and 2473 – Examination Results & Transcript Format

Mr. Vong provided an update regarding the regulation sections concerning exam requirements, inspection of exams, and minimum transcript format standards. He stated that the Board originally approved the regulation text in January 2022. The Board then approved revised text in September 2023 which repealed the exam reconsideration process in order to uphold exam security. In December 2023, the text was noticed for public comment, which ended in February 2024. Board staff is working on drafting proposed responses for the Board’s review pursuant to Government Code § 11346.9(a)(3). Since the summary of the comments and proposed responses are still in progress, he recommended the Board not discuss any comments received for the package, but instead discuss all comments at its next meeting so that each comment receives equal and formalized consideration and analysis.

Ms. Tugade called for public comment. No comments were offered.

8. SUNSET REVIEW

Ms. Tugade reported that she and Ms. Fenner testified at the Joint Sunset Review Oversight Hearing on March 12, 2024. She thanked the DCA Legislative Unit for holding a mock sunset hearing to help prepare for the actual hearing.

Ms. Fenner referred to the draft responses to the issues and questions in the Legislature’s Sunset Review Background Paper starting on page 73 of the Board agenda packet. She invited amendments from the Board and shared that the responses must be to the Legislature by April 14, 2024.

The Board provided amendments to the draft responses and commended Ms. Tugade and Ms. Fenner for their testimony at the hearing.

Ms. Tugade called for public comment.

Trina Cox, CSR, stated that many students were adversely affected by trying to figure out how to navigate new processes during the pandemic. She asserted that the statistics for the 2020 and 2021 time period are not a true representative of what would have happened absent the pandemic.

Mr. Dodge-Name responded that the reference to the exam statistics on page 77 of the Board agenda packet should have indicated November 2022, not 2020.

Ms. Brewer moved to approve the draft responses to the Background Paper as amended and instruct staff to submit it to the Legislature by April 14, 2024. Mr. Dodge-Nam seconded the motion. Ms. Tugade called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Mr. Mnayan, Ms. Sunkees, and Ms. Tugade

Opposed: None

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

9. SKILLS EXAM FORMAT

Ms. Fenner explained that California is the last state using a four-voice format to test for entry-level reporting skills. She stated that aligning the skills exam with the universal format of other states and certifying organizations may make it easier for students to prepare for the Board's license exam. A new test bank of audio-only exams would need to be developed, which would have a fiscal impact to the Board. This would include holding two to four exam development workshops with an average cost of \$4,000 to \$5,000 each.

Ms. Brewer inquired how long it would take to implement a change to the test format. Ms. Fenner responded that it would likely take a few years.

Mr. Dodge-Nam requested perspective from the licensee Board members and public regarding the quality of the proposed format versus the current four-voice format.

Ms. Brewer stated that the proposed format is the same as the Registered Professional Reporter (RPR) certificate from National Court Reporters Association (NCRA). Many exam candidates qualify to take the California test by achieving the RRP certificate. Using this format would open the door to additional testing organizations and practice materials.

Ms. Sunkees agreed and added that the RPR format is a more than adequate test of entry-level skill. She stated that the proposed format may also alleviate bandwidth requirements for examinees since the tests are not only shorter but are also audio only.

Mr. Mnayan stated that any increase in cost for the transition would be offset by future implementation of the test. It would also meet one of the Board's goals of streamlining the test-taking process.

Ms. Tugade expressed her excitement for the potential change and the long-range sustainability benefits. She called for public comment.

Ms. Gaskill inquired if the Board would create and develop its own test or adopt reciprocity with the national organizations and accept their tests to license California reporters. Ms. Fenner responded that the Board would develop its own RPR-format tests.

Diane Pessagno, CSR, stated that she taught court reporting students for 19 years and is pleased the Board is considering the change. She added that there are a higher percentage of candidates who qualified through the RPR who pass the Board's skills exam. The RPR format is a more well-rounded exam. She volunteered to serve on any committee to assist with the implementation.

April Williams, candidate, holds a Certified Verbatim Reporter (CVR) certificate from the National Verbatim Reporters Association and is scheduled to take the California exam. She supported the change to the format, but realizing it won't be implemented immediately, she offered suggested alterations to the four-voice test to increase passage rates without diminishing the high-quality and professionalism required for reporters: reduce speaker errors from a five-point error to a one-point error and to reduce the pass rate from 97.5% to 95% accuracy rate. Both of these items are standard for other exams in the profession.

Gwynevieve Farabee, student, supported the proposal to change the test format.

Lindsey questioned if the pass rate would be reduced from 97.5% to 95% accuracy rate.

Shanna Gray, CSR, spoke in support of the proposed change, agreeing with the statements made by Ms. Sunkees and Ms. Brewer. She hoped the change would move California closer to having reciprocity with other states for the skills portion of the exam.

Ms. Cox stated that California has always been known as the most stringent exam. She expressed concerns about lowering the standards of the exam and a step backward. She believed the RPR format to be far easier than the current four-voice exam.

Ms. Brewer reiterated that the Board needs to offer a minimally competent examination, and that the RPR format at 225 words per minute is a good test. She explained how the exams differ in speed, length, and syllabic density. Although four-voice is not irrelevant, she expressed that there is no other competition or certification test that is four-voice.

Mr. Dodge-Nam stated that ten years ago California had 6,848 licensed reporters, and now there are only 4,752 – a 30% decline. He believed standardizing the exam could help to address the decline. He inquired if there is data revealing poor performance of court reporters in other states that use a 95% accuracy rate. Ms. Fenner responded that there is not any known correlation in the number of enforcement complaints and the licensing requirements.

Ms. Fenner added that she conducted informal research to determine if there would have been any additional successful candidates if the current 97.5% accuracy rate had been lowered to 95%, and she found none.

Mr. Dodge-Nam asked if there was a way to expedite the format change. Ms. Fenner indicated that it will depend on the amount of assistance offered by working CSRs to help develop tests. Alternatively,, the Board may develop reciprocity with organizations that have already developed their tests.

Ms. Tugade shared concerns about lowering the accuracy rate but agreed that adopting a standardized exam format is a move in the right direction.

Mr. Dodge-Nam moved to change the skills exam from four-voice to a universal three-part format and instruct staff to begin the test development process. Ms. Brewer seconded the motion. Ms. Tugade called for public comment.

Mary Visciglio, CSR, spoke in opposition to making the exam easier. She said many of the depositions she reports are extremely fast with multiple people speaking at the same time. She stated that she does not believe there is a licensee shortage crisis and would like to see California jobs going to California residents.

Shivaneer Sujata Singh, CSR, suggested the Board give each candidate the ability to choose their testing format.

Linda Lawson, West Valley College instructor, spoke in support of switching to the RPR format. However, she suggested court reporting programs continue teaching multi-voice reporting as new licensees will need the skill.

Jean Kim, CSR, spoke in opposition to the proposal. She opined that a four-voice exam is a more accurate reflection of an entry-level work setting in both court and depositions.

Ms. Gray spoke in support of the motion. She said candidates will be able to focus on one exam format for both licensing and national certification. She stated that California courts are in dire need for licensees who will work in person in California.

Ms. Cox agreed with the comments in opposition made by Ms. Visciglio and Ms. Kim.

Melissa Alwood, Washington State CSR, offered comments in support of the proposal. She stated that she is residing in California while she works toward California licensure. She recently passed the RPR and believes it is a challenging exam.

Aletha Lotfield, CSR, believed she would have been licensed two years earlier if the Board had been using a 95% accuracy rate when she tested. She supported the proposed RPR format, but expressed opposition to out-of-state reporters working in California.

A vote was conducted by roll call.

For: Ms. Brewer, Mr. Dodge-Nam, Mr. Mnayan Ms. Sunkees, and Ms. Tugade
Opposed: None
Absent: None
Abstain: None
Recusal: None

MOTION CARRIED

The Board took a break at 12:00 p.m. and returned to open session at 1:30 p.m. Board staff established the presence of a quorum

10. LICENSE/CERTIFICATE RECIPROCITY

Ms. Fenner reported that staff is awaiting the final results of the evaluation of the National Verbatim Reporters Association's (NVRA) CVR certification conducted by the Office of Professional Examination Services (OPES).

Mr. Dodge-Nam inquired if reciprocity was being evaluated for California residents or if it would be open to all. Ms. Fenner responded that it would open to anyone holding the CVR certification for either steno or voice writing.

Ms. Tugade called for public comment.

Jeanenne Morphis, retired steno machine court reporter, shared that she is now attending a voice writing program. She passed the CVR and is in favor of reciprocity with NVRA.

Ms. Cox questioned whether the reciprocity proposal with the CVR would still require candidates to take the California skills exam. Ms. Fenner responded that the Board would assess the results from the OPES evaluation to determine whether it require any additional testing such as the written tests or skills exam or both. Ms. Cox asserted that having differing testing requirements for steno writers and voice writers would cause a chasm between the two practices.

Call-In User 20, CVR certificate holder, spoke in support of reciprocity. However, she expressed that if CVR reciprocity was allowed, then RPR reciprocity should be allowed as well. She added that any qualified licensed reporter should be allowed to work in California regardless of location.

Ms. Kim requested the Board table the consideration of reciprocity until there is an equal opportunity for machine steno writers.

Ms. Ocana stated that the NVRA also certifies machine steno writers for the CVR.

Ms. Fenner clarified that the Board has looked at the RPR for reciprocity. Unfortunately, there was a deficiency in the occupational analysis for the exam, which did not allow OPES to recommend any type of reciprocity at that time. The Board is open to reevaluation of the NCRA test if the deficiencies are resolved in the future.

11. BEST PRACTICE POINTERS TASK FORCE

Ms. Brewer reported that the chairs are awaiting full formation of the task force. She requested ideas for items the task force can consider for best practices to be sent to Board staff.

Ms. Williams shared that the best practice pointers are terrific for preparing for the professional practice exam. Although there is a lot of available material to prepare for the written English exam, it is difficult to accumulate study material for the professional practice exam because it is spread out. She requested the task force consider this when developing future best practice pointers.

12. GOVERNMENT CODE 69954(b)

Ms. Geoffroy stated that staff received requests to discuss the term “computer readable” format for transcripts and its reduced rate for production as referred to in Government Code § 69954(b). She informed the Board that the matter was noticed for public comment only, but that the Board would not take action on this item. She indicated that licensees seem to suggest that the statute references old technology that is obsolete and does not apply to the rate of production for electronically transmitted transcripts.

She stated that this law is not ambiguous to the California entities that have applied this law in the last few decades to technology changes since 1994. This includes courts that have ruled on this statute and the Attorney General’s Office, who represent the State of California in litigation and who pursued the adoption of the statute to relieve costs on taxpayers and to protect the interest of litigants.

Ms. Geoffroy indicated that the plain language of the statute does not specify any particular medium of computer-readable format or specifically reference a disk. Previous versions of other codes have been amended to refer to transcripts in electronic format rather than disks, indicating a preference of the Legislature to require the use of computerized transcript technologies in more general terms. Additionally, when a term is not codified as having another meaning, both the public and lawmakers or courts use the dictionary definition of the term as applied. The term “computer-readable” means information or text able to be understood by a computer. This may include any electronic communication processed through a computer.

A contextual analysis for statutory interpretation reveals that Government Code § 69954(b) applies to transcripts prepared using computer assistance and delivered on a medium other than paper. This is consistent with the general and dictionary understanding of “computer readable”. It is also consistent with legislative history and intent.

The Board has the statutory duty to apply the interpretation that best benefits the public and litigants and to further the right of access to the court system. This Board does not have the specific authority to clarify or make more specific this law through regulation, and therefore this matter is not noticed for discussion or action. However, this Board does have an interest in allowing the public to comment on items relevant to its jurisdiction. Therefore, the public may comment on Government Code section 69954.

Ms. Sunkees thanked counsel for the clarification.

Ms. Tugade called for public comment.

Ms. Gaskill, CSR, requested the Board examine Board staff's interpretation and future implementation of Government Code 69954(b) (Code). She stated that Board staff found in favor of a complainant who accused reporters of overcharging for copies of transcripts on appeal when calculating the cost for a second copy. She asserted that the Code cited by Board staff is only to be used when calculating the cost of a second copy when the second copy is in computer-readable format as an accompaniment to a paper copy. She added that appellants must purchase two copies of a transcript: one for the court of appeal and one for themselves. She contended that the intent of the Code is to reduce the cost of the electronic copy when purchased alongside the appellant's own copy where the second copy is going to the same person.

Ms. Pessagno expressed her opposition to the Board's interpretation of the Code. She agreed with the comments made by Ms. Gaskill. She stated that all court reporters are charging in the manner explained by Ms. Gaskill.

Jocelyn Fakhouri, CSR, joined in opposition to the Board's interpretation and agreed with Ms. Gaskill's statements. She added that there is no difference in the paper and pdf copies.

Ms. Tugade stated that the Board is an enforcement body, not a legislating body. If the industry associations wish to change the plain reading of the Code, they would be able to approach the Legislature.



13. FUTURE MEETING DATES

Ms. Tugade stated that staff would poll the Board members offline for calendar availability for the next meeting.

Ms. Tugade called for public comment. No comments were offered.

ADJOURNMENT

Ms. Tugade adjourned the meeting at 2:26 p.m.

	<u>7/12/2024</u>		<u>7/12/2024</u>
DENISE TUGADE, Board Chair	DATE	YVONNE K. FENNER, Executive Officer	DATE