



COURT REPORTERS BOARD OF CALIFORNIA

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COURT REPORTERS BOARD OF CALIFORNIA SPECIAL MEETING MINUTES OF OPEN SESSION DECEMBER 7, 2016

CALL TO ORDER

Ms. Davina Hurt, chair, called the meeting to order at 2:31 p.m. at the Department of Consumer Affairs HQ2, 1747 North Market Boulevard, Hearing Room, Sacramento, California, and the following two videoconference sites:

Kramm Court Reporting
401 West A Street, Suite 750
San Diego, CA 92101

Bureau of Automotive Repair
16735 Von Karman Avenue, Suite 100
Irvine, CA 92606

ROLL CALL

Board Members Present:

Davina Hurt, Public Member, Chair
Rosalie Kramm, Licensee Member, Vice Chair
Elizabeth Lasensky, Public Member
Carrie Nocella, Public Member
Toni O'Neill, Licensee Member

Staff Members Present:

Yvonne K. Fenner, Executive Officer
Norine Marks, Senior Staff Counsel
Fred Chan-You, Staff Counsel
Paula Bruning, Executive Analyst
Kim Kale, Licensing Analyst

A quorum was established, and the meeting continued.

I. FINDING OF NECESSITY FOR SPECIAL MEETING – GOVERNMENT CODE SECTION 11125.4(c)

Ms. Fenner explained that in order to call a Special Meeting, the Board must find that delaying the meeting for the required notice period or for the next regularly scheduled meeting would cause a substantial hardship on the Board or would be in violation of protecting the public interest. She added that the next regular meeting is scheduled for January 27, 2017, and that waiting until then to discuss an immediate retest would effectively be denying the request.

Mr. Chan-You clarified that regular meetings require a 10-day notice.

Ms. Nocella moved that the Board find that there is a necessity to convene a special meeting to address the issue of scheduling an additional examination because a delay in meeting would cause a substantial hardship on the Board due to the pressing need and time involved in scheduling such an exam. Ms. Lasensky seconded the motion. Ms. Hurt called for public comment. No comments were offered. A vote was conducted by roll call.

For: Ms. Kramm, Ms. Lasensky, Ms. Nocella, Ms. O'Neill, and Ms. Hurt.

Opposed: None

Absent: None

Abstain: None

Recusal: None

Ms. Hurt thanked the Board members for gathering on such short notice to hear this request. She also thanked Board staff for an accelerated review of the examination, gathering information, and communicating with the public.

Ms. Hurt shared two reasons she thought it important to call the meeting. The first was that there may have been an inadvertent violation of Board policy. Secondly, the Board has a fiduciary duty related to any large expenditure, and an additional test would require a large amount of money.

II. CONSIDERATION OF REQUEST FOR EMERGENCY RE-TEST OF THE SKILLS PORTION OF LICENSING EXAMINATION

Ms. Fenner provided a brief history of the November 18, 2016, dictation examination. She indicated that during setup, a decision was made to change the seating order of the examination readers. The change was intended to make it easier for reporting the questioning of the proceeding. However, it has come to staff's attention that there is a Board policy that sets out the order of the speakers and apparently that the schools are teaching that setup only. The students were not able to make the speaker identification change when the seating order was changed. Ms. Fenner stated that one of the court reporting schools offered the use of their facility to host an emergency retest.

Ms. Kramm inquired if there are any Board policies about where the test may be given. Ms. Fenner responded that there are no policies regarding location.

Ms. Lasensky requested statistics from the November 18, 2016, examination and a comparison to previous examination results. Ms. Fenner indicated that the overall pass rate was 7 percent. The previous lowest pass rate for an examination was 11 percent. The number of people who turned in an incomplete examination was considerably higher than usual. If the incomplete tests are taken out of the equation, the pass rate increases to 10 percent.

Ms. Fenner indicated that the cost to offer a retest would range from \$13,000 to \$32,000 in Los Angeles. In Sacramento, the cost range would be \$5,900 to \$14,000. The cost varies depending on the number of sleeping rooms reserved under the Board's room block.

Ms. Lasensky asked what is involved in preparing for an examination. Ms. Fenner indicated that the test is developed by working court reporters based on actual transcripts that are counted out to 200 words per minute with a 1.3 to 1.5 syllabic density. Although

it's time-consuming, the actual material preparation is not a factor for the retest. The logistics for offering an examination also include reviewing applications. Ms. Kale stated that a special application could be mailed with the November examination results mid-December with a deadline for application of December 30, 2016. The notices for retest could then be mailed out within a week, making it possible to hold a retest mid-January 2017.

Ms. O'Neill inquired as to the logistics for getting a hotel facility. Ms. Fenner indicated that Department of Consumer Affairs Contracts Unit stated that with proper justification, a contact could be completed in seven to ten days.

Ms. Kramm asked about the location of the school who offered the use of the facilities. Ms. Fenner responded that it is Sage College in Moreno Valley. Ms. Nocella asked if Sage College would be the only location the Board would explore or if there would be two locations. Ms. Fenner did not know if there were other schools with facilities large enough to host. During the meeting, South Coast College and Downey Adult Schools both offered their facilities.

Ms. Lasensky inquired if there would be any requirement to hold the meeting in Northern California since the November test was given in Northern California. Ms. Fenner said that a regularly scheduled examination would need to be in Northern California, but an emergency retest does not have any policies. If the Board is attempting to replicate the test, it would be in Sacramento; however, the Board could decide to offer it in Southern California to expedite it.

Ms. Nocella asked staff counsel if there was any policy that prohibits the Board from using a school facility free of charge without a conflict of interest or being viewed as accepting a gift. Mr. Chan-You responded that there is not a policy, but he had a concern of potential conflict of interest since the Board oversees the schools. He said he could research the issue and have an answer to the Board by the end of the week.

Ms. O'Neill expressed a hesitation with using a school facility due to an unfair advantage to the students of that program.

The Board took a break at 2:53 p.m. due to technical difficulties and returned to open session at 3:10 p.m.

Ms. Fenner shared that the original request for a retest came from Sage College, who offered their facility for the retest. She reiterated that since the start of the meeting, South Coast College, Downey Adult School, and Humphreys University have offered their locations for the retest. Mr. Chan-You stated there may be a conflict with having a retest at a school that is requesting the retest. The perception could be that the test is being given as a compensation for the use of the facility. Ms. Marks suggested the Board focus on whether or not there is a need for the retest before discussing the logistics of how it would be offered.

Ms. Hurt invited Tracy Montez, Ph.D., Chief of the DCA Division of Programs and Policy Review, to discuss the psychometric aspect of the examination. Dr. Montez reviewed the details associated with the examination and determined that the Board did not attempt to measure a skill set that was outside of the examination plan. Additionally, the candidates

were not treated differently from one group to another within the same examination. These are two areas that Office of Professional Examination Services (OPES) reviews to determine if the examination has been compromised. She determined that the November examination was valid and given in a standardized manner. The procedure was different, but it does not deviate from the expectations of what happens on the job. She added that comparing pass rates is not valuable because of variables that impact the reliability of those rates. She encouraged the Board to consider revising the Board policy regarding the seating of readers. Although it is important to give candidates a reasonable expectation of what is on the exam based on the exam plan, providing too many details can create problems with schools teaching to pass an examination instead of teaching to prepare for the profession.

Ms. Hurt opened the discussion to public comment.

Lorri Doll of the Argonaut Court Reporting Program asked if any notation will be placed on the statistics from the November dictation examination for the purpose of educating program accrediting agencies who review the statistics. Ms. Hurt stated that staff would need to research the matter.

Lauren Somma of Sage College thanked the Board for having the meeting. She stated that in a real life situation, the reporter has control over their environment and has the opportunity to grasp where everyone is seated before dictation is started. She asked the Board to consider the fact that 67 percent of the test takers submitted an incomplete examination, which she asserted is a significant factor in determining that a retest is necessary.

Sandy Finch of Golden State College agreed with Ms. Somma. She added that the pass rates from the November dictation examination is detrimental to the licensure pass rate benchmarks of 70 percent set by school accreditor ACICS. She stated that the test is very difficult, but is supposed to be entry level. She inquired if the March examination would still be offered if a retest is given.

Brooke Ryan, president of the California Court Reporters Association (CCRA), thanked the Board and staff for having an expedited meeting. She stated that CCRA acts in a support role to the students at the test. She offered support to the Board for whichever direction they decide to go with the request. Ms. Ryan suggested the Board consider waiving the exam fee for the next test for those who did not pass the November examination.

Monica Orosz, court reporting candidate, reported that she took the dictation examination for the first time in November. She stated that the test was comparably different in November than it had been at previous examinations since the Board policy was set in 1999.

Debra Bollman, vice-president of CCRA, stated that a violation of the Board policy should have an effect on the Board's decision to grant the request for a retest.

Tami Comet, court reporting candidate, challenged the analysis that all three groups at the November dictation examination were the same. She stated that during one group, there appeared to be an emotional open forum about the speaker lineup that caused a disadvantage to the candidates in that group.

Jocelyn Epperson, program coordinator for both Downey Adult School and Tri Community Adult Education, stated that she always urges students to write the examination regardless of how tough it is. However, at the November dictation examination, many of her students did not complete the test. She attributed the disruption in the dictation room as a big factor to students' loss of focus and ability to complete the exam.

Yolanda Krieger, director at South Coast College, stated that there was a retest in 1994 that was held at South Coast College. The retest was given to one group due to a disruption caused by an individual entering the room during dictation. Ms. Hurt inquired as to how many tests were given annually at that time. Ms. Fenner responded that only two tests were given each year.

Ms. Hurt asked how many of the candidates at the November dictation examination were repeat candidates. Ms. Kale responded that of the 127 candidates, 41 candidates were taking the test for the first time.

Latoya Nelson, court reporting candidate, expressed that she felt like a guinea pig and betrayed at the November dictation examination. She stated that she went to school in Virginia where she worked for four years. She asserted that in a real life situation, she is able to utilize her Case CATalyst software and make a seating chart.

Courtney Albright, court reporting candidate, stated that she has now taken three dictation examinations. She felt the July dictation test was very fair and entry level, but the material for November dictation examination was very difficult and dense. She stated that there were words in the test not provided in the glossary and the subject was not close to material used to study and prepare in school.

Joanna Hashwa, court reporting candidate, reported that the energy for the November dictation examination was bad. She agreed that the material was not entry level. She also stated that it is financially difficult to continue taking tests.

Michael McMorran, court reporter, stated that licensees pride themselves on passing a test where the integrity was not compromised. With a violation of Board policy, he asserted there is a break in integrity of that examination. He shared concerns regarding holding a retest at a school; however, it appears there is a precedent for doing so. He offered support in helping make a retest happen.

Jordan Barry, former court reporting candidate, took the November dictation examination although he no longer intends to pursue a license. He also observed the open forum that occurred during the group 2 dictation portion.

Heather Sachs, court reporting candidate, questioned why the test is considered valid if a policy was violated. Ms. Fenner responded that the test was read properly at 200 words per minute and contained the correct syllabic density. The location of the speakers was the only violation. She stated that it would be a disservice to those who passed the test to invalidate the entire test.

Dr. Montez reiterated that the validity of the test is based on the occupational analysis, which is a study of the court reporting profession that utilizes licensees. The exam plan is

then created and the test is developed. Although many variables have been discussed, including a violation of policy, reader order, speed, difficulty, and entry level material, she suggested the Board focus on whether or not it was a valid and fair process. She emphasized that this is a licensure examination, which carries its own expectations that the candidates are prepared for entry-level practice – something very different from student examinations.

Ms. Hurt closed the public comment period portion of the discussion. She asked for questions and comments from the Board members, requesting that they keep the protection of California consumers at the forefront.

Ms. O'Neill asked if there are any legal ramifications to the violation of a policy. Mr. Chan-You responded that there is no provision for a remedy to a policy violation. The silence of such a provision appears to give the Board more discretion on how they wish to proceed.

Ms. Lasensky asked what would happen to those individuals who passed the examination if the Board invalidated the November dictation examination. Dr. Montez suggested the Board not invalidate the examination and allow those who passed to move forward toward licensure.

Ms. Kramm stated that she believes the test was valid and those who passed should keep their status; however, a policy was broken, and, therefore, she supported a retest of the November dictation examination, possibly at a school facility.

Ms. O'Neill questioned whether those who turned in a complete test and did not pass should be allowed to also retake the test. Ms. Kramm supported the idea of all people who did not pass the test, whether they turned in a complete or incomplete examination transcript, to be allowed to retest before the March dictation examination. Ms. Lasensky agreed.

At Ms. Nocella's request, Ms. Fenner recapped the cost and timeline that would be involved in offering a retest before the March dictation examination. She added that the Board is under contract for the March dictation examination, so there would be fiscal ramifications for cancelling the March exam just to hold a retest sooner. She also stated that it was unlikely that staff would have the retest graded prior to the application filing deadline for the March examination.

Ms. Hurt reiterated that the Board takes responsibility that a policy was violated; however, the integrity of the examination was solid, which is evident by the candidates who did pass. She asserted that the high emotions affected the large percentage of candidates who did not finish the test. She questioned if the candidates would be in the right mind set to practice in preparation for a late-January or early-February dictation examination, considering the short turnaround time and the impending holidays. She asked the Board to consider the additional cost and workload that would be put on staff to hold an additional examination and what benefit the consumer would receive.

Ms. Lasensky stated that students are consumers of the Board as well. She asked for clarification of who would be allowed to take a retest. Ms. Fenner clarified that only people who had taken and failed the November dictation examination would be able to take the retest due to the logistics of the application process.

Ms. Marks stated that the policy is just a practice that does not have a value judgment behind it. The Board would need to decide at this point if a difference in the practice significantly disadvantaged the test takers enough to entitle them to a retest and whether or not to waive the fee. If the Board decides to move forward with a retest, she stated that the circumstances would need to be recreated, such as offering the test in Northern California.

Ms. Hurt suggested that the Board not offer a retest, but waive the fees for the March 2017 dictation examination.

Ms. O'Neill stated that some tests are more difficult for some candidates than for others, and she did not take the reported difficulty into consideration for a retest. She asked if retest candidates would still be able to take the examination in March. Ms. Fenner responded that the candidates would be able to apply for the March dictation exam, but may need to do so before knowing their results from the retest.

Ms. Kramm suggested the Board offer a retest in Northern California to candidates who were not successful at the November dictation examination. She further proposed the Board waive the fees for the retest and put the speakers in the order as indicated in the Board's policy. She recommended the Board make a decision about whether or not to offer the retest and work out the logistics of the location after consultation from staff counsel.

Ms. Nocella recommended that if a retest was offered it be in a hotel setting in Northern California. She did not support the idea of waiving fees for the test. She indicated that she was struggling with the idea of a retest and was not aware of any other state test that is redone because candidates felt wronged.

Ms. Kramm moved to offer a retest in Northern California, waive the fees, and to only allow individuals who did not pass the November 18, 2016 dictation examination to retest, with the readers sitting in their historical places. Ms. Lasensky seconded the motion. Ms. Hurt called for public comment.

Ms. Nocella indicated that the perspective of the candidates could be altered by changing the location, potentially offering a competitive advantage over candidates who had taken it at a hotel setting. Ms. O'Neill agreed, adding that the site needs to be in neutral territory.

Ms. Kramm amended her motion to include that the retest should be given in a similarly situation hotel as the November 18, 2016, dictation examination.

Ms. O'Neill stated that she believed the readers should be seated just as they were at the November dictation examination to be a replication. Ms. Kramm contended that the replication of a wrong practice would deviate from the reason for the retest.

Ms. Nocella requested an amendment to the motion to remove the waiver of the fees. Ms. Kramm accepted the amendment.

The motion was reread as follows:

Ms. Kramm moved to offer a retest in Northern California, to only allow individuals who did not pass the November 18, 2016, dictation examination to retest, with the readers sitting in their historical places. Ms. Lasensky seconded the motion.

Ms. Hurt called for public comment. No further comments were offered. A vote was conducted by roll call.

For: Ms. Kramm, Ms. Lasensky, Ms. Nocella, and Ms. O'Neill.

Opposed: Ms. Hurt

Absent: None

Abstain: None

Recusal: None

MOTION CARRIED

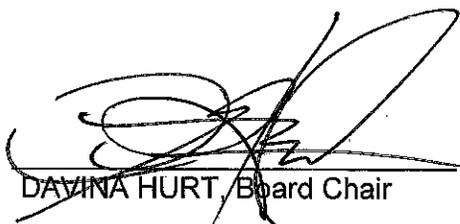
Ms. Marks indicated that for future reference, examinations can be given in school settings with little or no cost; however, there may be a conflict in utilizing schools that are under the Board's purview.

III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

No comments were offered.

ADJOURNMENT

Ms. Hurt adjourned the meeting at 4:45 p.m.



DAVINA HURT, Board Chair

7/6/17
DATE



YVONNE K. FENNER, Executive Officer

7/6/17
DATE