

NOTICE OF COMMENT PERIOD

On February 24, 2021, the proposed amendments to Neb. Ct. R. § 1-201 et seq. submitted by Corey Steel, State Court Administrator, on behalf of the Court Record Working Group, were considered by the Nebraska Supreme Court. The Nebraska Supreme Court directed that the proposed amendments be published for a public comment period.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments. Anyone desiring to comment on the proposed amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via email to wendy.wussow@nebraska.gov, with the rule section(s) listed in the subject line, no later than March 31, 2021.

The full text of the proposed amendments are available below, or a paper copy may be obtained from the office of the Clerk of the Supreme Court and Court of Appeals upon request.

CHAPTER 1: ADMINISTRATIVE OPERATIONS

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Article 2: Court Reporting Personnel.

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§ 1-201. Purpose; hiring and appointment or designation ~~contracting~~ of court reporting personnel.

(A) The purpose of §§ 1-201 through ~~1-219~~ 1-218 is to provide for the hiring and appointment of court reporting personnel, as defined in § 1-204(A)(1), to perform the duties required by Nebraska Supreme Court rules for the recording and preservation of evidence and if applicable preparation of bills of exceptions in all cases in the district, ~~and~~ separate juvenile, and county courts. As set forth below, court reporting personnel shall be hired and appointed, ~~designated~~, or contracted with in accordance with these rules and approved by the State Court Administrator ~~contracted with~~, by a judge of the district, ~~or~~ separate juvenile, or county court to perform the duties required by these rules and all other Nebraska Supreme Court rules relating to the making, preserving, transcribing, and delivery of court records.

(1) Hiring and ~~A~~ appointment of official court reporters. Except as otherwise ordered or directed by the Nebraska Supreme Court, a judge of the district and separate juvenile court may ~~appoint or~~ hire and appoint an official court reporter with approval from the Nebraska Supreme Court or the State Court Administrator, ~~may contract with one official court reporter~~ to make, preserve, transcribe, and deliver the record of the trial and other proceedings over which said judge presides. Such ~~an~~ official court reporter ~~is an at-will employee of the Nebraska Supreme Court, subject to the Court's general administrative authority pursuant to art. V, § 1, of the Nebraska Constitution~~, and serves at the pleasure of the appointing judge and the Nebraska Supreme Court, is subject to the general administrative authority of the Nebraska Supreme Court pursuant to art. V, § 1, of the Nebraska Constitution, ~~and serves at the pleasure of the appointing judge and the Nebraska Supreme Court~~ works under the direction of the appointing judge and State Court Administrator, and is subject to the Nebraska Supreme Court Personnel Policies and Procedures unless otherwise discharged from employment as provided in § 1-204(D)(E).

(2) Hiring and ~~A~~ appointment of courtroom clerks. A judge of the district court, ~~and~~ separate juvenile court, and county court may hire and appoint a courtroom clerk with the approval of the State Court Administrator, to make, preserve, and deliver a digital ~~the~~ recording of the trial and other proceedings over which said judge presides using multichannel digital recording equipment provided by the Administrative Office of the Courts and Probation. Such courtroom clerk is subject to the general administrative authority of the Nebraska Supreme Court pursuant to art. V, § 1, of the Nebraska Constitution, works under the direction of the appointing judge and State Court Administrator, and is subject to the Nebraska Supreme Court Personnel Policies ~~&~~ and Procedures unless otherwise discharged from employment as provided in § 1-204(G). The provisions of § 1-201(A)(2) do not prohibit a judge, in his or her discretion, from contracting with a court reporter having the qualifications of an official court reporter if extenuating circumstances or a specific case so require.

(3) Designating other court personnel to act as court reporting personnel. In his or her discretion, a judge opting to use multichannel digital recording equipment in his or her courtroom to make and preserve the record of a trial and other proceedings may, temporarily under § 1-213 or in lieu of appointing a courtroom clerk under § 1-201(A)(2), designate other court personnel as defined in § 1-204(A)(4) to perform the duties of a courtroom clerk. The provisions of § 1-201(A)(3) do not prohibit a judge, in his or her discretion, from contracting

with a court reporter having the qualifications of an official court reporter if extenuating circumstances or a specific case so require.

~~(B) Except as otherwise provided herein, if the office of the appointing judge is vacated, and the Judicial Resources Commission declares that a judicial vacancy exists in the affected district, the official court reporter or courtroom clerk may continue in that position until either reappointment by a successor judge or the appointment of replacement court reporting personnel.~~

~~(C) If the office of the appointing judge is vacated and the Judicial Resources Commission determines that a judicial vacancy does not exist in the affected district, the official court reporter or courtroom clerk in such district shall vacate that position 90 days from the date of such determination by the commission.~~

(4) Contracting of official court reporters. Except as otherwise ordered or directed by the Nebraska Supreme Court, a judge of the district, separate juvenile, or county court may contract with an official court reporter with the approval of the State Court Administrator to make, preserve, transcribe, and deliver the record of the trial and other proceedings over which said judge presides. Such an official court reporter is subject to the general administrative authority of the Nebraska Supreme Court pursuant to [art. V, § 1, of the Nebraska Constitution](#), works under the direction of the appointing judge and State Court Administrator, and shall comply with any Nebraska Supreme Court Rule applicable to performing the duties of an official court reporter.

§ 1-202. Oath of office.

Court reporting personnel shall take the oath of office provided in Neb. Const. art. XV, § 1. ~~for judicial officers.~~

§ 1-203. Duties of court reporting personnel.

Court reporting personnel are charged with ~~a~~ the duty to comply with any Nebraska Supreme Court rule relating to official court reporters and courtroom clerks and, in accordance with the specific terms of such employment and qualifications, with the duty of making, preserving, transcribing, and/or delivering a verbatim record of all proceedings in the court to which they are appointed in accordance with this section and [Neb. Ct. R. App. P. § 2-105](#). Except as otherwise directed by the State Court Administrator, all digital recordings made by courtroom clerks or other court personnel as defined in [§ 1-204\(A\)\(4\)](#) shall be outsourced for transcription to an official court reporter or privately contracted court transcribers who shall meet the minimum qualifications set forth in § 1-204(B)(2), (C), or (D). Failure to comply with court rules may result in disciplinary action, including but not limited to termination, by either the hiring and appointing judge, or the Nebraska Supreme Court, or the State Court Administrator. In addition, court reporting personnel shall perform any other duties assigned by the hiring and appointing judge, the Nebraska Supreme Court, or the State Court Administrator and shall, in accordance with the specific terms of such employment and qualifications:

(A) On order of the trial judge, make or have made and file in the clerk's office a ~~typewritten~~ transcription of any trial or proceedings, or any part thereof, without expense to any party to the

suit; such transcription shall be a part of the records in the case. An official court reporter or privately contracted court transcriber shall receive from the appropriate governmental unit the compensation specified below in [§ 1-219](#) 1-218 for any such transcription ordered by a judge.

(B) Upon request of counsel or any party to a suit, furnish to such counsel or party, as expeditiously as possible, a ~~typewritten~~ transcription or audio version provided by multichannel digital recording equipment, if available, of any trial or proceedings, or any portion thereof. An official court reporter or privately contracted court transcriber shall receive the compensation specified below in [§ 1-219](#) 1-218 for any such transcription or audio version, except that when expedited, daily, or real-time delivery is requested for a transcription, the official court reporter or privately contracted court transcriber and the requesting party may mutually agree to an amount to be paid for delivery of such transcription. Counsel or any party shall make satisfactory arrangements with the official court reporter or privately contracted court transcriber for payment. ~~All work of an official court reporter involved with the preparation of such transcription shall be considered freelance activity subject to [§ 1-211](#).~~ The time spent at such transcription or preparing an audio version shall not interfere with any other duties of the court reporting personnel.

(C) Upon request of any person not a party to a suit, if so approved by the trial judge, furnish to such person or have prepared for such person, as expeditiously as possible, a ~~typewritten~~ transcription or audio version provided by multichannel digital recording equipment, if available, of any trial or proceedings, or any portion thereof. ~~All work of an official court reporter involved with the preparation of such transcription shall be considered freelance activity subject to [§ 1-211](#).~~ The time spent at such transcription or preparing an audio version shall not interfere with any other duties of the court reporting personnel. The compensation and payment therefor shall be as prescribed in [§ 1-203\(B\)](#).

(D) All verbatim transcriptions shall be certified by the person responsible for preparation of the verbatim transcription or the presiding judge to be true and correct.

(E) When an audio version is provided under (B) or (C), it is for the assistance to the party requesting the audio version and is not the official record. Any transcript produced from an audio version must be transcribed in accordance with this section. The official record of all judicial proceedings are the exclusive duty of court reporting personnel pursuant to Neb. Ct. R. § 1-201 et seq.

Before providing an audio version, court reporting personnel shall review the court file of the proceeding subject to the request to determine if any access limitation has been ordered or is pending and shall comply with all laws regarding privacy of information. Court reporting personnel shall also notify the judge presiding at the hearing which is the subject to the request(s), or the presiding judge of the jurisdiction, of the request for an audio version.

§ 1-204. General qualifications and definitions.

(A)(1) Court reporting personnel. Court reporting personnel shall include official court reporters, courtroom clerks, and other court personnel as defined in [§ 1-204\(A\)\(4\)](#) who, in whole

or in part, according to the terms of their employment, make, preserve, transcribe, and deliver the record of any trial and other proceeding in any district, ~~or separate juvenile, and county~~ court of Nebraska.

(2) Official court reporter. An official court reporter shall be an individual employed by the court and be competent in the making, preserving, transcribing, and ~~delivering~~ of a verbatim record of trial and other proceedings through the use of machine shorthand or the use of ~~multi-track~~ multichannel digital recorders supplemented by logging procedures. An official court reporter shall meet either the qualifications set forth in § 1-204(B)(~~1~~) and (~~2~~) or the qualifications in § 1-204(~~B~~)(~~3~~)(C).

(3) Courtroom clerk. A courtroom clerk shall be an individual employed by the court to record testimony by the use of multichannel digital recording equipment supplemented by logging procedures. A courtroom clerk shall be competent in the making and preserving of a verbatim record of a trial and other proceedings and shall meet the qualifications set forth in § 1-204(E)(F).

(4) Other court personnel. For purposes of these rules, “other court personnel” shall mean persons employed within the Nebraska court system who are under the control or supervision of the Nebraska Supreme Court or the designating judge and who have been trained in the use of multichannel digital recording equipment and meet the qualifications set forth in § 1-204(E)(F).

(B)(~~1~~) One's professional competence to serve as a machine shorthand official court reporter shall be demonstrated by having passed an examination conducted by such entities as the State Court Administrator may from time to time designate, which tests one's reporting skills and knowledge of spelling, grammar, and the reporting craft. The skills portion of the examination shall require the reporter to report and transcribe each of three items of dictation consisting of (i) literary material, (ii) jury instructions, and (iii) two-voice testimony. Each dictation segment shall be of 5 minutes duration. The literary material must be reported at a rate of not less than 180 words per minute, the jury charge at not less than 200 words per minute, and the two-voice testimony at not less than 225 words per minute.

(~~2~~) All of the dictated material must be transcribed with 95 percent accuracy in a period of not more than 3½ hours, during which time a dictionary may be used. In grading this portion of the test, a maximum of 45 errors is permitted on the literary material, a maximum of 50 errors is permitted on the jury charge, and a maximum of 57 errors is permitted on the two-voice testimony. The knowledge portion of the examination shall consist of not less than 100 written multiple-choice questions and must be passed with a score of not less than 70 percent in a period of time as determined by the examiner, but no more than 90 minutes per 100 questions. A dictionary may not be used during this portion of the examination.

(~~3~~) (C) One's professional competence to serve as an official court reporter using a ~~multi-track~~ multichannel digital recorder to record and transcribe shall include creating a transcript from a mock court proceeding recorded on, at minimum, a four channel digital software. The transcript will be approximately 10 to 20 pages, including the title, index, and certification page. In order to pass, there must be 98 percent accuracy. Additionally, both the AAERT Certified Electronic

Court Reporter test (CER) and the AAERT Certified Electronic Transcriber test (CET) must be passed to be classified as an official court reporter using a ~~multi-track~~ multichannel digital recorder.

(D) The State Court Administrator may approve an individual to be classified as an official court reporter under (B) or (C) if the individual has an equivalent test or similar certification or prior court experience.

~~(C) No applicant for a position as an official court reporter may hereafter be initially appointed or reappointed following the taking of office by a judge succeeding the judge making the initial appointment unless the applicant shall first have met the above testing requirements.~~

~~(D)~~ (E) After employment, an official court reporter may be required to undergo reexamination through testing substantially similar to that described in § 1-204(B) or (C) any time upon the request of the appointing judge, the Nebraska Court of Appeals, ~~or the Nebraska Supreme Court,~~ or the State Court Administrator. Failure to pass the reexamination shall constitute cause for the immediate discharge of the official court reporter from employment.

~~(E)~~ (F) One's professional competence to serve as a courtroom clerk shall be demonstrated by the following minimum criteria and competency requirements:

- (1) successful completion of training on use and maintenance of multichannel digital recording equipment;
- (2) ability to promptly diagnose and correct routine malfunctions;
- (3) proficiency in note taking and logging procedures;
- (4) knowledge of courtroom procedures and legal vocabulary; ~~and~~
- (5) knowledge of the proper admission of exhibits to be included in the bill of exceptions; and-
- (6) ability to accurately type on a computer while simultaneously monitoring a proceeding.

~~(F)~~ (G) After employment, the courtroom clerk may be required to undergo a competency evaluation based on the criteria found in § 1-204(E)(F) at any time upon the request of the judge, the Nebraska Court of Appeals, ~~or the Nebraska Supreme Court,~~ or the State Court Administrator. Failure to meet such competency criteria shall constitute cause for action pursuant to the Nebraska Supreme Court Personnel Policies and Procedures.

§ 1-205. Place of residence of official court reporter or courtroom clerk.

~~The place of residence of the official court reporter or courtroom clerk shall be determined by the appointing judge.~~

§ 1-205. Duties of official court reporters.

(A) Official court reporters who meet the qualifications set forth in § 1-204(B):

(1) Official court reporters shall only use stenography software programs approved by the Administrative Office of the Courts and Probation.

(2) Official court reporters shall create an audio file of all court proceedings as a backup and for validating notes.

(3) Upon being appointed and by July 1 of each year, each official court reporter shall file a copy of the official court reporter's dictionary on the statewide electronic repository identified by the Administrative Office of the Courts and Probation.

(4) Within 48 hours of any court proceeding, each official court reporter shall upload copies of all electronic files generated to capture the court record to the Administrative Office of the Courts and Probation centralized repository.

(5) Official court reporters shall follow all technology standards approved by the Nebraska Supreme Court governing the capturing, storage, and retention of electronic files generated to capture the court record.

(B) Official court reporters who meet the qualifications set forth in § 1-204(C):

(1) Official court reporters shall only use digital recording software approved by the Administrative Office of the Courts and Probation.

(2) Within 48 hours of any court proceeding, each official court reporter shall upload copies of all electronic files generated to capture the court record to the Administrative Office of the Courts and Probation centralized repository.

(3) Official court reporters shall follow all technology standards approved by the Nebraska Supreme Court governing the capturing, storage, and retention of electronic files generated to capture the court record.

(C) Contracting official court reporters shall comply with all technology standards approved by the Nebraska Supreme Court governing the capturing, storage, and retention of electronic files generated to capture the court record.

§ 1-206. Principal office location of judge and court reporting personnel ~~official court reporter or courtroom clerk.~~

~~Each judge, in a district where the judge and official court reporter or courtroom clerk do not reside in the same county, shall designate, if a multicounty district, a courthouse in the judicial district to serve as the principal office location for the judge and a courthouse in the judicial district to serve as the principal office location for the court reporting personnel.~~

In a multicounty district, the Nebraska Supreme Court will determine a courthouse in the judicial district to serve as the principal office location for the judge and that courthouse in the judicial district shall serve as the principal office location for the court reporting personnel.

§ 1-207. Assignment of court reporting personnel.

(A) All court reporting personnel may be assigned by the State Court Administrator to perform duties on a temporary basis in any court in the state.

(B) Any court reporting personnel assigned on a temporary basis pursuant to § 1-207(A) shall receive, in addition to a regular salary, reimbursement ~~for all necessary and actual expenses incurred, in conformance~~ in accordance with the [travel policies](#) of the Administrative Office of the Courts and Probation. ~~Mileage in such instances will be paid to and from the place of residence of the assigned court reporting personnel.~~

§ 1-208. Court reporting personnel acting when ~~another~~ temporary judge presides.

~~Unless otherwise directed by the appointing judge, court reporting personnel shall serve as such in all matters heard by another judge when acting in place of the appointing judge, and shall perform in relation to such matters all the duties required by law or these rules.~~

In all matters heard by a temporary judge when acting in place of the appointing judge, the judges, in consultation with each other, will determine what court reporting personnel shall serve and perform in relation to such matters all duties required by law or these rules.

§ 1-209. Reimbursement for travel expenses.

Court reporting personnel shall be reimbursed ~~for actual and necessary expenses incurred in the performance of official duties. Reimbursement shall be~~ in accordance with the [travel policies](#) of the Administrative Office of the Courts and Probation.

§ 1-210. Custody of trial records and documents.

(A) In addition to the requirements of § 1-205, All all shorthand notes, ~~tape~~ audio recordings, log sheets, or any other material used in making the record in court shall be the property of the trial court, ~~and shall, unless otherwise ordered or directed by the judge for whom the record is made,~~ The originals shall remain in the custody of the court reporting personnel responsible for making such record until such time as that person leaves employment, that person's employment is terminated, or until that person is disabled or incapacitated. Upon the occurrence of any of the above, control of all such materials shall then be transferred to the clerk of the district court. All notes of court reporting personnel shall be marked on the first page with the name of court reporting personnel, date(s) of proceedings, case title(s), docket number(s), and "Criminal" if criminal cases were reported. Notes which contain criminal cases are to be separated and stored in separate filing equipment or storage boxes. Containers for permanent storage shall be marked with the year, type of notes (criminal or civil), and name of the court reporting personnel responsible for making such record. Court reporting personnel may, with the approval of the clerk of the district court, transfer permanent storage containers to the clerk of the district court at any time. Responsibility for the retrieval, research, and refiling of the notes contained in the storage files shall lie with such court reporting personnel or successor(s). Custody of any such materials may be assumed at any time by the judge in the event of failure on the part of the court reporting personnel to properly carry out duties as required by law, court rule, or direction of the appointing judge.

(B) Except as it shall become necessary to include exhibits in bills of exceptions being prepared in connection with appeals to the Nebraska Supreme Court or Nebraska Court of Appeals, all exhibits shall be retained by the court reporting personnel responsible for custody of the record until a matter is terminated, at which time responsibility for the safekeeping of such exhibits shall pass to the clerk of the district court, unless otherwise ordered by a district or separate juvenile court judge pursuant to law. Likewise, the responsibility for the safekeeping of all exhibits shall pass to the clerk of the district court at such time the court reporting personnel leaves employment, is terminated, or becomes disabled or incapacitated ~~upon termination of employment of the court reporting personnel for whatever reason.~~

(C) Upon the transfer of responsibility for the safekeeping of exhibits from the court reporting personnel to the clerk of the district court, the court reporting personnel shall ensure that all exhibits in each case are grouped together and shall state thereon the caption of the case, docket and page or case number, the date or dates of the trial or proceedings, and the name of the reporter or courtroom clerk. The court reporting personnel shall prepare in each case, for the signature of the clerk of the district court, a receipt acknowledging responsibility for the safekeeping of such materials. The original of the receipt shall be retained by the clerk.

(D) Court reporting personnel in county courts shall refer to the Uniform County Court Rules of Practice and Procedure.

§ 1-211. Freelance activities of ~~official~~ court reporting personnel reporters.

(A) Freelance reporting activities shall mean the reporting or transcription by ~~an official court reporter~~ court reporting personnel of oral statements from, including, but not limited to: depositions; arbitrations; grand juries; mental health board hearings; any non-Judicial Branch public or private agency or organization hearing or meeting; or proceedings of any nature whatsoever, other than those required by these rules, ~~those specifically requested by the judge who appointed the reporter, or for said judge's substitute, or by the State Court Administrator.~~

(B) Except as provided for by these rules, ~~an official court reporter~~ court reporting personnel may engage in freelance reporting activities during normal working hours ~~if, and only if,~~ the ~~reporter~~ court reporting personnel takes approved accrued leave without pay and said activities are determined by the judge who appointed the ~~reporter~~ court reporting personnel to be in the interest of the public, provided, however:

(1) The taking of approved accrued leave without pay shall not be required if the freelance activity occurs outside the court's normal work hours ~~during a reporter's lunch hour~~, while the ~~reporter~~ court reporting personnel is on vacation leave, or while the ~~reporter~~ court reporting personnel is taking compensatory time off.

(2) Freelance reporting activities shall not be performed during any period in which the ~~reporter~~ court reporting personnel is granted an extension to complete and file a bill of exceptions except for those activities related to the specific bill of exceptions for which the extension has been granted.

~~(3)(i) Freelance reporting activities shall not be performed when the presence of the official court reporter court reporting personnel is required by these rules, by the judge who appointed the reporter court reporting personnel, by said judge's substitute, or by a judge to whom the reporter court reporting personnel has been assigned by the State Court Administrator, or by the State Court Administrator. except, however, transcription described in § 1-203(B) or (C) may be performed during this time if the appointing judge or judge's substitute determines such transcription is in the best interests of the public, and the time spent at such transcription is not in conflict with any other duties of the official court reporter.~~

~~(ii) If the reporter's full-time presence is not required by the appointing judge or judge's substitute during normal working hours, the reporter may, without taking leave without pay, engage in transcription described in § 1-203(B) or (C) only.~~

(C) All other outside employment during normal working hours is prohibited.

(D) ~~An official court reporter~~ Court reporting personnel shall neither provide nor cause to be provided any public office space to any of the ~~reporter's court reporting personnel's~~ employees or associates.

(E) ~~An official court reporter~~ Court reporting personnel shall not use any publicly-owned supplies or equipment in connection with any freelance reporting activity. Provided, however, that permission to utilize state-owned equipment for purposes outside the scope of ~~official court reporting court reporting personnel~~ duties may be given by the State Court Administrator Nebraska Supreme Court if: (1) the equipment is to be used for purposes of recording proceedings of other public entities; and (2) operation of the recording equipment by the ~~reporter court reporting personnel~~ will not be during working hours nor in any other way interfere with the ~~reporter's court reporting personnel~~ official responsibilities; and (3) ~~payment of \$10 to the State of Nebraska, through the office of the State Court Administrator, is made from any such public entity for each day or any part thereof that the equipment is used.~~

(F) All approved accrued leave ~~without pay~~ taken for the purpose of engaging in freelance activity shall be pre-approved by the supervising judge and in accordance with the leave policies of the Nebraska Supreme Court Personnel Policies and Procedures and recorded on the monthly timesheet. ~~The amount of income and the leave earnings on the following month's paycheck shall be adjusted to reflect any time recorded on the timesheet as leave without pay. Hours spent in transcription preparation under § 1-211(B)(3) during normal working hours shall be recorded on the monthly timesheet as prescribed by the Office of the State Court Administrator.~~

(G) ~~An official court reporter~~ Court reporting personnel shall not be eligible for injury leave or workers' compensation benefits for injury sustained while on approved accrued leave ~~without pay~~.

(H) ~~An official court reporter~~ Court reporting personnel shall not evade the provisions of this rule by employing contracting with a substitute court reporter court reporting personnel to perform any their official duty.

§ 1-212. ~~Employment~~ Use of substitute reporter; alternative substitute.

(A) In the event an official court reporter voluntarily leaves employment; is terminated; is unavailable because of illness, or disability, or incapacity of an official court reporter; or is unavailable for any other reason, and where it would appear to not be practical or feasible to reassign another official court reporter on a temporary basis, the judge of ~~the ill or disabled reporter~~ such reporter, with the approval of the State Court Administrator, may designate or contract with a reporter having passed an examination at least as stringent as that described in § 1-204(B), or (C) or received approval from the State Court Administrator as described in § 1-204(D) to act as a substitute reporter, ~~at state expense.~~

(B) The preparation of any bill of exceptions or transcript by any such substitute reporter shall be subject to the same rules and regulations as those governing permanently employed official reporters.

(C) Payment to such ~~temporarily employed~~ contracted substitute reporter shall be on a ~~per diem~~ contract basis at a rate determined by the State Court Administrator, and payment will be made only for the actual days such substitute reporter was required by the judge to be in attendance upon the court. ~~Per diem payment may not be in excess of that figure which the ill or disabled reporter's gross monthly salary amounts to if computed on a per diem basis.~~

(D) No contracted substitute reporter shall be entitled to ~~sick leave or any other~~ benefits ordinarily available to the official court reporter for whom he or she is substituting.

~~(E) Actual and necessary expenses, including mileage reimbursement, shall be paid to such substitute reporter under the same terms and conditions as those payments are then being made to the official court reporter for whom he or she is substituting.~~

~~(F) Any additional reimbursements to a substitute reporter may only be made with the prior approval of the State Court Administrator.~~

~~(G)~~ (E) As an alternative to the provisions of § 1-212(A) through ~~(F)~~(D), the appointing judge of an official court reporter may also, on a temporary basis, either request from the Administrative Office of the Courts and Probation or designate with approval from the Administrative Office of the Courts and Probation other court personnel, as defined by § 1-204(A)(4), to operate multichannel digital recording equipment in his or her courtroom for the purpose of making the record of proceedings, so long as the court personnel meets the competency requirements of § 1-204(F).

§ 1-213. ~~Employment~~ Assignment of substitute courtroom clerk.

In the event of the absence of a courtroom clerk, the appointing judge of such courtroom clerk may request from the Administrative Office of the Courts and Probation, any Nebraska Supreme Court employee meeting the competency requirements of § 1-204(F) to act as a substitute courtroom clerk. If such employee is not available, and where it would appear to not be practical or feasible to reassign an official court reporter on a temporary basis, the judge may designate or

contract with a substitute reporter under the provisions of [§ 1-212](#) or, pursuant to [§ 1-201\(A\)\(3\)](#), designate other court personnel as defined in [§ 1-204\(A\)\(4\)](#) to perform the duties of the courtroom clerk.

§ 1-214. Leave applicable to ~~official court reporters~~ reporting personnel.

All leave, including holiday leave, vacation leave, sick leave, funeral leave, family leave, military leave, civil leave, injury leave, and workers' compensation disability leave, shall be taken as provided in the authorized leave policies of the Nebraska Supreme Court Personnel Policies & and Procedures. Provided, however, that ~~an official court reporter~~ court reporting personnel shall take vacation at the same time as or at the discretion of the appointing judge. If the ~~reporter~~ court reporting personnel is permitted to take vacation at a time other than when the appointing judge takes vacation and the services of a substitute ~~reporter~~ court reporting personnel are required by such judge, ~~it shall be the obligation of the official court reporter taking vacation to arrange for the services of a substitute reporter at no cost to the State,~~ the ~~reporter~~ court reporting personnel shall work with the Administrative Office of the Courts and Probation to find ~~an alternate substitute reporter~~ court reporting personnel. ~~unless otherwise determined by the State Court Administrator.~~ The substitute ~~reporter~~ court reporting personnel must have passed an examination at least as stringent as that described in [§ 1-204\(B\)](#), [\(C\)](#), or [\(F\)](#) or received approval from the State Court Administrator as described in [§ 1-204\(D\)](#). The arrangement may not be implemented unless first approved by the State Court Administrator.

§ 1-215. Overtime applicable to official court reporters.

(A) Overtime for official court reporters shall be earned and compensated for as provided in the overtime policies in the Nebraska Supreme Court Personnel Policies & and Procedures, except as otherwise provided by the Court Reporter Fair Labor Amendments of 1995, 29 U.S.C. § 207(o)(6) and these rules. Except in cases of emergency, no overtime shall be approved during a workweek in which the reporter has engaged in freelance transcription under ~~[§ 1-211\(B\)\(3\)\(A\)](#)~~.

(B) Any hours spent performing "~~freelance~~" transcription of court proceedings shall not be counted as "hours worked" for purposes of the overtime provisions of the Fair Labor Standards Act if:

(1) ~~T~~he reporter is being paid not less than maximum per page rate established by ~~[§ 1-218](#)~~ ~~[§ 1-219](#)~~, or the per page rate freely negotiated between the reporter and the party requesting the transcript (other than the judge who presided over the proceedings), and

(2) ~~T~~he hours spent performing such duties are outside the hours such reporter performs other work (including hours for which the court requires the reporter's attendance) pursuant to the employment relationship with the court; e.g., ~~leave without pay, outside the court's normal work hours~~ lunch hours, vacation leave, compensatory time off, or official leave of absence. ~~or time where the reporter's attendance at any designated workplace is not required by the appointing judge, the judge's substitute, or the State Court Administrator.~~

~~§ 1-216. Nebraska Official Court Reporters Association.~~

~~There shall be an organization called the Nebraska Official Court Reporters Association, which shall consist of all official court reporters. This organization shall have as its purpose the improvement of court reporting in this state, by providing a forum for the exchange of ideas and to educate all reporters to more adequately and expeditiously handle the reporting needs of this state. The association shall adopt bylaws consistent with these rules, providing for the election of a president and such other officers as the association determines appropriate. The association shall have at least one meeting per year, which shall serve as an education seminar as provided by Judicial Branch Education, unless such annual meeting is canceled or suspended by order or direction of the Nebraska Supreme Court.~~

~~If the judge who appointed the reporter requires the presence of an official court reporter during the time of the educational seminar, a substitute may be designated to replace the official court reporter while attending the seminar. This shall be at state expense.~~

§ 1-217. 1-216. Preparation and delivery of bill of exceptions or transcription by another official court reporter.

~~(A) In the event a bill of exceptions or transcription of a trial or proceeding is required after an official court reporter who reported the same has voluntarily left his or her position, but who retains residency in this state, such bill of exceptions or transcription shall be prepared by that person, under the same requirements, time limitations, and rate of compensation as that in existence for official court reporters.~~

~~(B) (A) In the event a bill of exceptions or transcription of some a trial or proceeding is required after the official court reporter who reported the same has voluntarily left his or her position, and who no longer is a resident of this state; has been terminated; is temporarily ill, disabled, or incapacitated; or for any other reason is unable to prepare the bill of exceptions or transcription, such bill of exceptions or transcription shall be prepared by the successor reporter, provided the same method of recording court proceedings is employed by such successor reporter by a reporter as assigned by the Administrative Office of the Courts and Probation in consultation with the judge and may be the official court reporter who prepared the record, the successor, or a substitute.~~

~~(C) There shall be established within the Nebraska Official Court Reporters Association a committee of official court reporters whose function will be, in the event the provisions of § 1-217(A) and (B) cannot be implemented, to prepare any bill of exceptions or transcription required.~~

~~(D) In the event a bill of exceptions or transcription of some trial or proceeding is required, but the official court reporter who reported the same is temporarily ill or disabled to the extent that delivery of the same would be unduly delayed, then the provisions of § 1-217(C) shall become effective.~~

~~(E) (B) In cases where a bill of exceptions or transcription is prepared by an official court reporter who did not make the actual record in court, the certificate shall set forth that the bill of exceptions or transcription was prepared from the record made by the unavailable reporter, and~~

that the bill of exceptions or transcription is full, true, and correct to the best of the preparing reporter's ability to compile such bill of exceptions or transcription.

§ ~~1-218.~~ 1-217. Other related policies.

The workplace harassment policy, the drug-free workplace policy, ~~and travel, furlough, use of social media, and information systems and security~~ policies apply to all court reporting personnel. Copies of these policies are available through the Administrative Office of the Courts ~~and Probation~~ and are also printed in the Nebraska Supreme Court Personnel Policies & ~~and~~ Procedures manual.

§ ~~1-219.~~ 1-218. Per-page and audio version compensation.

~~Effective June 8, 2005, the~~ The per-page or audio version fee to which an official court reporter or privately contracted court transcriber is entitled, as prescribed by the Nebraska Supreme Court pursuant to [Neb. Rev. Stat. § 25-1140.09](#), shall be according to the fee schedule as determined by the State Court Administrator and approved by the Nebraska Supreme Court. ~~\$3.25 per page for an original copy of a bill of exceptions and 50 cents per page for each additional copy, with numbering to begin with the cover page.~~