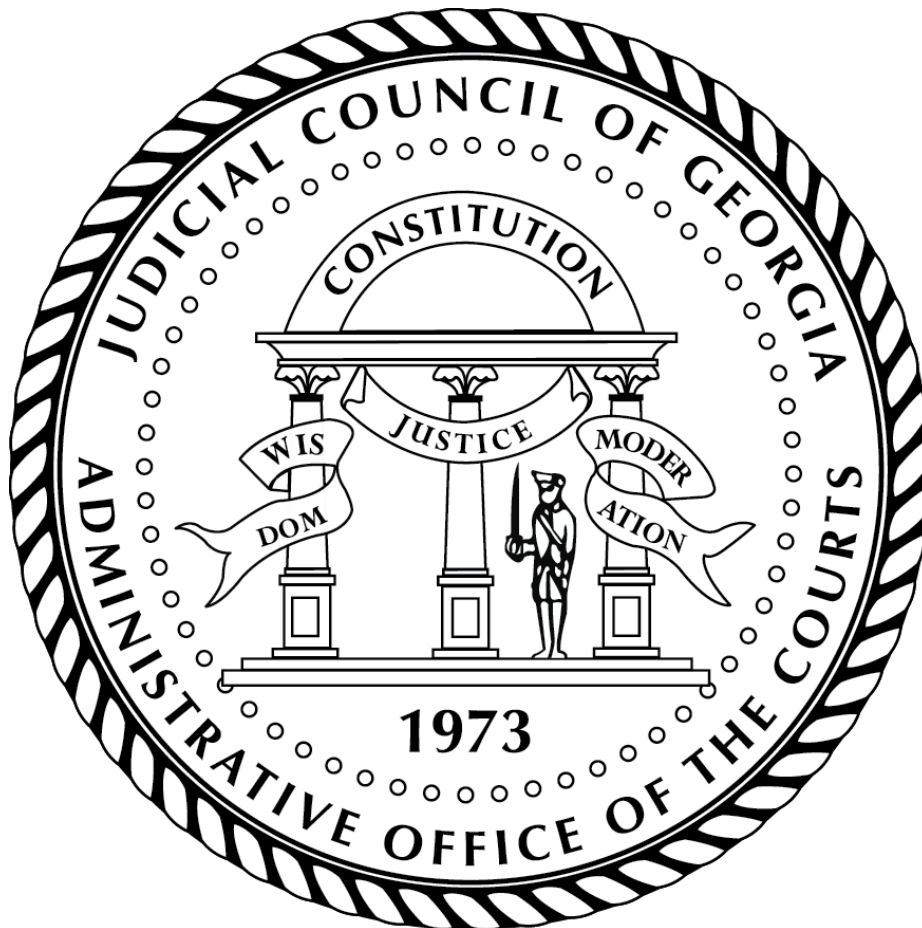

RULES AND REGULATIONS

GEORGIA

CERTIFIED PROCESS SERVER PROGRAM



Administrative Office of the Courts
244 Washington Street SW, Suite 300
Atlanta, GA 30334
Effective Date: January 1, 2019

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ARTICLE 1: Purpose

To improve the standards of practice for private service of process and to provide a list of persons eligible to serve process in courts statewide, the Georgia General Assembly amended O.C.G.A. § 9-11-4.1,; to grant authority for civil process to be served in Georgia by persons deemed by sheriffs of any county in Georgia to have met the criteria to be certified to serve process in addition to sheriffs, marshals, and permanent process servers. The Judicial Council of Georgia promulgates these rules to implement and explain specific procedures regarding Certified Process servers in Georgia.

ARTICLE 2: General Provisions

A. Legal Authority

O.C.G.A. § 9-11-4.1(a) authorizes the Judicial Council of Georgia to promulgate rules and regulations regarding certified process servers in Georgia by requiring all those desiring to become certified process servers in Georgia to comply with O.C.G.A. § 9-11-4.1 “and any procedures and requirements set forth in any rules or regulations promulgated by the **Judicial Council of Georgia regarding this Code section.**”

B. Location of Offices

The address of the principal office of both the Judicial Council of Georgia and the Administrative Office of the Courts of Georgia is 244 Washington Street SW, Suite 300; Atlanta, Georgia 30334-5900. The address of the principal office of the Georgia Sheriffs’ Association, Inc. is 3000 Highway 42 N; Stockbridge, GA 30281.

C. Definitions

For the purpose of these rules:

1. “*Council*” means the Judicial Council of Georgia;
2. “*AOC*” means the Administrative Office of the Courts of Georgia;
3. “*GSA*” means the Georgia Sheriffs’ **Association, Inc.**;
4. “*GCPS*” means Georgia Certified Process Server;
5. “*Coordinator*” means the Program Coordinator of the Georgia Certified Process Server program;
6. “*Exam*” means the Georgia Certified Process Server Examination;
7. “*Identification Card*” means the non-law enforcement credentials issued to Certified Process servers by the certifying Sheriff; and
8. “*GCR*” means the Georgia Courts Registry, the website to be used by individuals seeking certification and registering for testing.

D. Administration

1. The Director of the AOC will be the Program Coordinator. Through the Director, his or her designee shall assist the Judicial Council in promulgating rules and regulations, approving training and testing programs, and coordinating with the GSA and others involved in the certification process.

E. Effect of these Rules on Persons Authorized to Serve Process by Other Law

These rules pertain to only process servers certified pursuant to O.C.G.A. § 9-11-4.1(a).

ARTICLE 3: Certification

A. General Requirements

1. To be a certified process server in Georgia, an individual must:
 - a. Be at least 18 years of age;
 - b. Be a citizen of the United States; and
 - c. Not have been convicted of or entered a plea of guilty or of *nolo contendere* to, have a pending first offender or conditional discharge adjudication for, or have a pending charge for, the following:
 - i. A felony;
 - ii. Impersonating a peace officer or other public employee under O.C.G.A. § 16-10-23;
 - iii. A misdemeanor domestic violence;
 - iv. A misdemeanor crime of moral turpitude;
 - v. Any traffic offense which may result in a suspension or revocation of a driver's license;
 - vi. A serious traffic offense as defined by Article 15 of Chapter 6 of Title 40, located at O.C.G.A. § 40-6-390 et seq.; or
 - vii. Driving Under the Influence under O.C.G.A. § 40-6-391.

B. Application

1. A person seeking certification must file with the sheriff of any county in Georgia a completed, sworn GCPS application packet.
2. For an application packet to be complete, it must contain the following:
 - a. A complete GCPS application;
 - b. Documented proof of citizenship;
 - c. Results of a fingerprint-based criminal background check conducted in accordance with Article 7 of these Rules;
 - d. A certificate of successful completion of pre-certification training, given to the applicant by any approved training provider, as detailed in Article 5.E of these Rules;

- e. A certificate of successful completion of the GCPS Exam as detailed in Article 6 of these Rules;
 - f. A surety bond substantially in the form of Appendix A, or a commercial insurance binder demonstrating that applicant has obtained, and maintains a policy of liability insurance in the amount of at least \$25,000 as required by O.C.G.A. § 9-11-4.1(b)(1)(D) to protect members of the public and persons employing the certified process server against any damage arising from any actionable misconduct, error, or omission on the part of the applicant while acting as a certified process server;
 - g. An \$80 application fee **in the form of money order or cashier's check made payable to the Sheriff's office that receives the application; and**
 - h. Other fees that the Council may establish from time to time.
- 3. Sheriffs shall accept only complete certification application packets. Acceptance of a certification application packet does not grant a process server authority to operate in a county.
 - 4. All applicants and certified process servers must, at least annually, log into their GCR accounts to update their contact information and communicate with AOC staff whenever appropriate and/or needed.
- C. Application Review; Rejection; Approval; Identification Card; Oath; List
- 1. Complete certification application packets shall be reviewed and either approved or rejected for cause by the receiving sheriff within 15 business days of their receipt. If the receiving sheriff rejects a certification application, the sheriff shall issue a written response showing grounds as to why the application was rejected and shall issue the response to the applicant and file it with the GSA.
 - 2. When the receiving sheriff approves an application, an Identification Card shall be issued to the applicant, who, upon receipt of the Identification Card and writing of the Oath as specified in Article 8, will be a certified process server in Georgia.
 - 3. An applicant may appeal the receiving sheriff's rejection of an application for certification as provided for in Article 11.A. of these Rules.

D. List of Certified Process servers

In accordance with OCGA § 9-11-4.1(e), the GSA shall maintain a registry of all certified process servers in Georgia. GSA will share this list with the AOC by the beginning of every calendar year in electronic format or as needed upon request by the AOC.

E. Length of Certification

1. Certification is effective for three years from the certification date indicated on the process server's **Identification** Card unless the certification is revoked or suspended as provided by O.C.G.A. § 9-11-4.1(c) and these Rules.
2. All certificates expire at midnight on the expiration date indicated on the process server's **Identification Card** as provided by **Article 9.A** of these Rules.

F. Withdrawal

1. A certified process server may withdraw certification instead of allowing certification to lapse, which would otherwise result in suspension for non-renewal. See Article 4C.
2. A certified process server may not request withdrawal of certification if placed under investigation.

ARTICLE 4: Renewal

A. Generally

A certified process server desiring to renew an existing certification must file with any Georgia sheriff an application for renewal, on a form available from the AOC and the GSA, and all other documentation and fees as required on the form. Sheriffs shall accept only complete renewal applications. Acceptance of a renewal application does not grant a process server authority to operate in a county.

B. Inactive Status

1. A certified process server who wishes to cease serving process in Georgia may elect to withdraw certification and become inactive by submitting written notice to the GSA and the certifying sheriff who, in turn, will notify the AOC within 30 days of receipt of **the process server's** written notice.
2. When a certified process server has filed a completed application for renewal before the expiration of the existing certification, the current certification does not expire until the certifying Sheriff has approved or denied said application.
3. An inactive certified process server shall not be required to obtain continuing education hours if he or she remains inactive for greater than 26 weeks during a calendar year.
4. An inactive certified process server who wishes to again become an active certified process server in Georgia must:
 - a. Become certified through testing in the manner prescribed by Article 6; and
 - b. Pay a renewal/reactivation fee established within Article 12 of these rules with \$30 of the fee to be disbursed by the certifying sheriff to the GSA.

ARTICLE 5: Training

A. Generally

1. Training, as related to any area in these rules and regulations, refers to the proficiency, competency, and performance of and the impartation of knowledge and understanding of the service of process, the Georgia judiciary, the legal process, and increases the participant's understanding of the responsibilities of a certified private process server and the process server's **impact on** the judicial process.

B. Approved Training Programs

1. Individuals and entities wishing to administer a training activity shall submit the proposed training activity on the approved form to the coordinator at the AOC for consideration before conducting the activity. Applications submitted after the training activity has been completed or conducted will be rejected.
2. The coordinator will review and approve the pre-certification training curriculum.
3. All pre-certification and continuing education training courses may be provided in either an in-person or online setting.
4. Primary faculty for any proposed pre-certification training activity must be Georgia certified process servers in good standing. Said faculty shall provide proof of the instructor's **individual qualifications** to provide instruction in the way of curriculum vitae, certificates or any documentation that proves their instructing experience in the subject matter. Individuals or organizations seeking to provide continuing education courses do not need to be certified in Georgia.
5. At a minimum, the proposal shall meet all requirements of these Rules and Regulations and shall include the following:
 - a. Course content, objectives, teaching methods, and the evaluation method;
 - b. Names and qualifications of the faculty, which may be updated by amendment to the original application;
 - c. Written materials for the participants (a copy of the materials shall be included with the proposal);
 - d. Number of CE credits the sponsoring entity is recommending the AOC grant for completion of the activity; and

- e. A statement that the sponsor agrees to assume responsibility for the following:
 - i. Verifying attendance of the participants;
 - ii. Providing a certificate of attendance for each participant who successfully completes the activity;
 - iii. Maintaining registration and attendance documents for a period of three (3) years;
 - iv. Submitting an electronic copy of the following to the GSA:
 - a. Sign In/Attendance log containing the applicants signature; and
 - b. Comprehensive list of all attendees and their corresponding test scores;
 - v. Upon request of the AOC, providing any additional information requested to assist the AOC in evaluating whether to approve the activity or to ensure compliance with this policy;
 - vi. Providing to the AOC amended training materials within 30 days of any changes, amendments to statutes, rules, and regulations affecting the practice of process service in Georgia;
 - vii. Providing the AOC with an affidavit regarding the ownership and proprietorship of the material provided to AOC that will be used in individual pre-certifications or continuing education before certification; and
 - viii. Provide the AOC with changes or amendments to the training materials, curriculum or program in general.
- 6. The AOC reserves the right to request information regarding any pre-certification or continuing education provided for process servers in the State of Georgia. The AOC can, at any time, suspend any pre-certification or continuing education provider should they fail to provide said curricula or information about their individual programs, or **should they fail to comply with the coordinator's request within 30 days** of the original request.
- 7. The AOC will review each approved training provider every five years after the adoption of these rules for training providers currently licensed at the time of adoption or five years after any new members have been approved as training

providers. The AOC has the discretion to request materials related to the course and any other related information related to the trainers or the program in general or sections in particular.

C. Probationary Status

1. Training providers will be assessed on passage rate of their students. A training provider will be put under probationary status if, for three consecutive tests, the rate of passage of their students falls below 70%.
2. The testing rate will be assessed by AOC staff. The rate of passage will be shared with the training provider no later than 60 days after the date of the test that caused the training provider to be put under probationary status.
3. If a training provider is put under probation, the training provider must:
 - a. Update all training material and teaching methods within three months of being notified of their probationary status.
 - b. Provide a course of action to bring the passage rate of their students above 70%.
 - c. Fully cooperate with any requests for an update of the curriculum and/or training method issued by the AOC.
4. The probationary period will last no less than two years. During that time, the training provider must continue to maintain the rate of passage at 70% or above.
5. Probationary status will be published **on the AOC's public website with an explanation** as to what this status means.
6. If the training provider fails to bring their passage rate above 70% after their probationary period, their authorization to provide any pre-certification training will be revoked for a period of one year, after which time, they will be able to re-apply as a new applicant

D. Trainer Standards

1. Primary faculty for any proposed training activity must be Georgia certified process servers in good standing.
2. Individuals conducting a training activity should possess experience and expertise in the service of process, legal, and judicial systems. Faculty from other disciplines may conduct a training activity when their expertise contributes to the goals of a specific

program. Training providers shall provide the AOC proof of said experience as required by the Coordinator.

3. The individual or entity that received approval for the training curriculum shall retain a résumé on file for all trainers for a period of three (3) years after the delivery of each training session.
4. The individual or entity that received approval for the training curriculum maintains liability and responsibility for the quality of the training provided.

E. Process Server Applicant Pre-Certification Training

1. To submit a complete certification application packet, an applicant must first successfully complete a 12-hour pre-certification training as approved by the AOC.
2. Upon successful completion of the 12-hour pre-certification training, the applicant will receive a certificate of completion from the instructor.
3. Pre-certification training curriculum (12 hours) shall include:
 - a. Regulation of process serving (.5 hour): an overview of O.C.G.A. § 9-11-4.1 and these rules
 - b. Ethics and Professionalism (1.5 hours)
 - c. Process Server Liabilities and Responsibilities (1 hour):
 - i. The content of Article 3 of these rules and of O.C.G.A. § 9-11-4.1, including but not limited to, a review of the following topics in detail:
 1. All work shall be performed in a lawful, professional, and ethical manner, and a certified process server shall do all things possible to protect the rights and confidentiality of a client and of any person to whom legal process is directed.
 2. A certified process server shall maintain high personal standards that do not impugn upon the reputation of the process service profession.
 3. A certified process server must be a citizen of the United States, at least 18 years of age, and not be a party to the case. The process server must not have an interest in the outcome

of the case or be related by blood or marriage to someone who has such an interest.

4. A certified process server shall attempt to perfect service within five days from receipt of a summons and complaint, but if unable to do so, shall engage in diligent efforts to perfect service.
 5. A certified process server must supply and file a proof of service with the court in the county in which the action is pending within five business days of the service date. A certified process server shall not falsify or misrepresent the facts surround the delivery of legal process to any person or entity. The proof of service must be signed in the presence of a notary public and should never be signed in blank.
 6. A certified process server shall display credentials at all times while engaged in service of process as stated in O.C.G.A. § 9-11-4.1(h)(3) (i) and said certified process server shall report lost or stolen credentials to the certifying county Sheriff's Office within three days of discovery of the loss.
 7. A certified process server shall fulfill all the criminal background requirements in Article 7.
 8. A certified process server must maintain a commercial surety bond in an amount not less than the amount required by the rules set forth by the Judicial Council.
- d. Constitutional Law and Georgia Law relevant to service of process (6 hours):
- i. Knowledge and understanding of the applicability of the relevant Georgia code sections. A current list of relevant Georgia code sections shall be maintained by the AOC and shall be available upon request.
- e. Personal Safety (1 hour)
- f. Best Practices: Practical Exercises on Process Serving (2 hours)

F. Annual Renewal Training

1. Each certified process server shall complete a minimum of 5 hours of training per calendar year relevant to the performance of duties as a certified process server, including, but not limited to the following:
 - a. Ethics; and
 - b. Updates to the relevant law regarding service of process.
2. Each certified process server shall complete a minimum of 5 hours of training per calendar year subsequent to the year of initial certification.
3. The failure to obtain the requisite annual training shall result in suspension of certificate.
4. The certificate of training issued by the approved vendor shall be submitted to the certifying Sheriff's Office during the month of January, for training received during the preceding calendar year.
5. Approved instructors may receive two (2) hours of pre-certification or renewal credit for each hour of instruction they provide in a course. The hours of instruction should be submitted by the approved vendor in a certificate of training, noting credits for instructional time. This shall not apply whenever application of said credits is not allowed by third-parties.
6. Said training can be received in a classroom setting or online setting, if said training is received from a training provider previously authorized by the AOC.

ARTICLE 6: Examination and Testing

A. Certification Examination

1. The AOC shall, from time to time in a time and setting designated by the AOC, provide for an exam to be administered to an applicant, pursuant to a written protocol established by the AOC.
2. The exam shall be designed to test the competency of the applicant as a process server **in Georgia by testing the applicant's knowledge of the laws, rules, and regulations** governing serving process in Georgia in the following areas and shall reflect the information presented within Article 5.D. and Article 10 of these rules.
 - a. Regulation of Process Serving
 - b. Ethics and Professionalism
 - c. Process server Liabilities and Responsibilities
 - d. Constitutional law and Georgia law relevant to Process Serving
 - e. Personal Safety
 - f. Best Practices: Practical Exercises on Process Serving
3. The AOC may modify exam questions and answers as necessary to ensure consistency with Georgia law, statutes, rules, and regulations and where the substance of the question or answer is not affected. Any substantive changes to exam questions or answers must be made by the AOC in consultation with the GSA at the AOC's discretion.
4. Pre-certification training provider will submit proof of completion at least two weeks before the testing date designated by the AOC. By submitting proof, the training provider acknowledges that the individual who has completed their course has received training as required by these rules.
5. For online pre-certification training outlets: all providers must submit proof of completion of the training program by their attendees on the 1st and 16th day of the month and at least two weeks before the testing date as designated by the AOC.

B. Testing

1. For a complete certification application, an applicant must complete an exam successfully as approved by the AOC.

2. Upon successful completion of the exam, the applicant will receive from the tester a certificate of completion.
3. Applicants who fail to achieve a validated score on the exam may not retest for a period of 30 calendar days.
4. Applicants must repeat the 12-hour pre-certification training, at their own expense, should they test three (3) consecutive times and fail to achieve a passing examination score.

ARTICLE 7: Criminal Background Requirements

A. Criminal Background Check; Fingerprinting

1. As per Article 3.B.2.c. of these Rules, each application to become a certified process server shall contain a criminal background fingerprint check.
2. The applicant shall submit to electronic fingerprinting by the office of the certifying Sheriff no more than two weeks before submission of an application packet to a Georgia Sheriff to ensure current criminal history information is presented.
3. Each Sheriff shall set the cost of obtaining a fingerprint-based criminal history.
4. **The applicant shall bear the cost of obtaining the applicant's criminal history.**

B. Ongoing Qualifications

1. No certified process server shall be employed who has been convicted of or has entered a plea of guilty or of *nolo contendere*, has a pending first offender or conditional discharge adjudication for, or has a pending charge for, the following:
 - a. A felony;
 - b. Impersonating a peace officer or other public employee under O.C.G.A. § 16-10-23;
 - c. A misdemeanor domestic violence;
 - d. A misdemeanor crime of moral turpitude;
 - e. Any traffic offense which may result in a suspension or revocation or a driver's license;
 - f. A serious traffic offense as defined by Article 15 of Chapter 6 of Title 40, located at O.C.G.A. § 40-6-390 et seq.; or
Driving Under the Influence under O.C.G.A. § 40-6-391.
2. Each certified process server shall notify in writing the GSA, the certifying Sheriff, and the Sheriff of any county who has issued the process server authorization of the following within three business days:

- a. If the process server is convicted of or enters a plea of guilty or of *nolo contendere* to, has a pending first offender or conditional discharge adjudication for, the following:
 - i. A felony;
 - ii. Impersonating a peace officer or other public employee under O.C.G.A. § 16-10-23;
 - iii. A misdemeanor domestic violence;
 - iv. A misdemeanor crime of moral turpitude;
 - v. Any traffic offense which may result in a suspension or revocation or a **driver's license**,
 - vi. A serious traffic offense as defined by Article 15 of Chapter 6 of Title 40, located at O.C.G.A. § 40-6-390 et seq.; or
- b. Driving Under the Influence under O.C.G.A. § 40-6-391
- c. An outstanding arrest warrant or a pending criminal charge. This includes any traffic offense which may result in a suspension or revocation or a **driver's license**
- d. Failure to submit notification within three business days of any such event will result in immediate suspension of certification and may result in prosecution if **the event violates Georgia's criminal statutes**.
- d. Suspension of certification results in the process server's **inability to operate as a certified process server** in any county within Georgia until the suspension is lifted or the term of suspension expires.

ARTICLE 8: Oath

Upon completion of the certification process, the certifying Sheriff will present each applicant with the following oath. The certifying Sheriff shall retain the original written oath and provide a copy to the certified process server.

"I do solemnly swear (or affirm) that I will conduct myself as a process server truly and honestly, justly and uprightly, and according to law; and that I will support the Constitution of the State of Georgia and the Constitution of the United States. I further swear (or affirm) that I will not serve any papers or process in any action where I have a financial or personal interest in the outcome of the matter or where any person to whom I am related by blood or marriage has such an interest."

CERTIFIED PROCESS SERVER

DATE

SHERIFF

DATE

_____ COUNTY, GEORGIA

ARTICLE 9: Identification Card

A. Identification Card

1. A certified process server shall carry (and prominently display) the Identification Card issued to them by the certifying sheriff at all times when serving process. This Identification Card will serve as the certified process server's **credentials as required** by O.C.G.A. § 9-11-4.1(h)(2)(i).

ARTICLE 10: Ethics

A. Generally

A certified process server shall perform services in a manner consistent with legal and ethical standards.

1. A certified process server, having located the sought-after party or persons receiving process for those parties intended for service, shall professionally serve process, utilizing sound judgment and avoiding rudeness and unprofessional conduct.
2. A certified process server shall serve process in an objective, nonjudgmental manner.
3. A certified process server shall not misrepresent the certified process server's qualifications, fees, or any other information relating to the role of the server as a certified process server.
4. A certified process server shall not utilize the position for any purpose other than to gain access to information or services authorized by the applicable statutory, case law, administrative orders, and these Rules.
5. A certified process server shall act in the best interests of the client by maintaining a high standard of work and reporting to the client the full facts determined as a result of the work and effort expended, whether they are advantageous or detrimental to the client.
6. A certified process server shall file an affidavit of service or certificate of service promptly or return the unserved documents.

B. Compliance with Rules and Applicable Laws

Certified process servers shall perform all services and discharge all obligations in accordance with current Georgia and federal law, Georgia rules of civil procedure, administrative orders, and these Rules.

C. Professionalism

Certified process servers shall exercise the highest degree of professionalism in all interactions with clients, the party located, and others they come into contact with during

the service. Certified process servers shall utilize professional judgment and discretion at all times.

1. A certified process server shall handle all legal documents with care and maintain required records in a professional manner.
2. A certified process server may act as a mentor to assist an inexperienced certified process server to increase skill level and successful service of process.
3. A certified process server shall not provide or offer legal advice.
4. Certified process servers shall not violate any rules adopted by the Judicial Council, or conduct themselves in a manner that would reflect adversely on the Judicial Council, the judiciary, law enforcement, or other agencies involved in the administration of justice.
5. A certified process server shall respect the confidentiality of information and shall preserve the confidences of all parties before, during, and following the formal relationship with the client.
6. A certified process server shall maintain a professional appearance at all times.
7. A certified process server shall be courteous and polite in all dealings and shall abstain from using profanity or vulgarity in contact with others.
8. A certified process server shall never attempt to decide the merits of a lawsuit. A certified process server shall never engage in discussions regarding the action being taken with the persons being served except those discussions necessary for the certified process server to successfully, professionally serve process on the party.
9. A certified process server shall know the protocol in a court building before proceeding with service and shall take appropriate steps to avoid impairing security or creating a security issue in a court building.

D. Skills and Knowledge

Certified process servers shall demonstrate adequate skills and knowledge to perform the work of a private process server, and shall seek training opportunities to maintain professional competency and growth.

1. A certified process server has an obligation to have knowledge and keep informed of all current and applicable laws regarding the service of process in Georgia.

2. A certified process server has a responsibility to maintain a working knowledge of proper method of service of process.
3. A certified process server shall possess the necessary verbal and written communication skills sufficient to perform the private process server role.
4. A certified process server shall manage service proficiently, including skills necessary to be a competent process server, which skills include, but are not limited to those necessary to serve process, maintain records, and communicate with clients in a timely manner.
5. A certified process server shall keep clients, court personnel, and other relevant public officers reasonably informed about the status of the service and promptly comply with reasonable requests.
6. A certified process server shall ensure all affidavits and certificates prepared by the certified process server are complete, accurate, understandable, and are filed with the court in a timely manner.

Article 11: Complaints Against a Certified Process Server

Complaints against process servers are governed by O.C.G.A. § 9-11-4.1(c), which is incorporated here by reference.

ARTICLE 12: Fee Schedule

- | | |
|---|--|
| A. Georgia Certified Process server (GCPS) Application Fee: | \$80 |
| B. GCPS Certification Renewal Fee: | \$80 |
| C. GCPS Reinstatement Fee: | \$80 |
| D. Pre-certification and Continuing Education Fee: | \$15 per credit hour |
| E. GCPS Test Administration Fee: | \$250 for the first
test administration; if an applicant applies to re-take the test a second time within six
months, the second test administration fee shall be \$125. |
| F. GCPS Identification Card and Replacement Fee: | \$15 |
| G. Fingerprint processing fee: | set by each Sheriff |