

**MINNESOTA SUPREME COURT
STATE COURT ADMINISTRATOR'S OFFICE**

**ENFORCEMENT PROCEDURES FOR
THE CODE OF PROFESSIONAL RESPONSIBILITY FOR
COURT INTERPRETERS**

I. SCOPE

A. Interpreters Subject to Enforcement Procedures

Roster Interpreters: These procedures apply only to interpreters who are included on the Statewide Roster maintained by the State Court Administrator. Interpreters on the roster include certified and non-certified interpreters who have passed the ethics examination administered by the State Court Administrator and who have filed with the State Court Administrator a written affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

Staff Interpreters: Staff interpreters are employees of the Minnesota Courts and are not subject to these enforcement procedures. They are subject to the Minnesota Judicial Branch Human Resources Rules.

B. Types of Interpreter Actions Subject to Enforcement Procedures

These procedures apply to complaints about roster interpreters who have allegedly engaged in unethical or unprofessional conduct in the course of performing their interpreter duties, and in some situations unethical conduct outside the scope of interpreting. These procedures supersede former Rules V, VI and VII of the Rules on Certification of Court Interpreters.

These procedures may be used in addition to the sanction of disqualification for good cause imposed by a judge in a proceeding as set forth in Rule 8.03 of the General Rules of Practice for the District Courts. These procedures are also intended to address violations of Minnesota State Court System Administrative Policy No. 18 (court interpreter payment policy) that rise to the level of an ethical violation. Finally, these procedures are not intended to be a vehicle for complaints about interpreting errors made by interpreters during the course of a proceeding, unless there is an allegation of gross incompetence or knowing misinterpretation or misrepresentation.

C. Who May File A Complaint

Any person may initiate a complaint by filing it in accordance with Section III. Complainants may include, but are not limited to, defendants, litigants, court personnel, judges and judicial officers, other interpreters, and courtroom observers.

II. GROUNDS FOR DISCIPLINE

Complaints against roster interpreters may be filed for reasons including but not limited to:

- A. Conviction of a felony, gross misdemeanor or misdemeanor involving moral turpitude, dishonesty or false statements;
- B. Fraud, dishonesty, or corruption which is related to the functions and duties of a court interpreter;
- C. Knowing misrepresentation of court certification or roster status;
- D. Knowing and willful disclosure of confidential or privileged information obtained while serving in an official capacity as a court interpreter;
- E. Gross incompetence;
- F. Repeated failure to appear as scheduled without good cause;
- G. Violation of the Code of Professional Responsibility for Court Interpreters or violation of Minnesota State Court System Administrative Policy No. 18 (interpreter payment policy) that rises to the level of an ethical violation or unprofessional conduct; and
- H. Engaging in behavior that constitutes discrimination or harassment under the Judicial Branch Rule against discrimination and harassment.

III. FILING AND REVIEW OF COMPLAINT

A. Filing of Complaint

A complaint must be submitted in writing or an acceptable alternative format, signed by the complainant, and mailed or delivered to the following address: Court Interpreter Program, Minnesota Judicial Center,

25 Rev. Dr. Martin Luther King, Jr. Blvd., St. Paul, Minnesota 55155-1500. The complaint shall state the date, time, place and nature of the alleged improper conduct. If possible, the complaint shall include the name(s), title(s) and telephone number(s) of possible witnesses. Finally, the complaint shall state why the complainant believes the alleged improper activity should be sanctioned.

If the complainant is unable to communicate in written English, the complainant may submit the complaint in his or her native language.

Alternative forms of documentation, such as video or audio formats, will be considered when the complainant is unable to document a complaint in writing due to illiteracy or where no written form of the complainant's native language exists.

B. Review of Complaint

1. The Court Interpreter Program (CIP) Coordinator shall review the complaint and determine whether the allegations, if true, would constitute grounds for discipline. If the Coordinator determines that the complaint alleges conduct that would be grounds for discipline, an investigation shall proceed according to Section IV.
2. If the Coordinator determines that the complaint does not allege conduct that would be grounds for discipline, the Coordinator shall dismiss the complaint and notify the interpreter and complainant via first class mail. The notification shall include an explanation of the reason(s) for the Coordinator's determination that the complaint does not allege conduct that would be grounds for discipline.
3. If the complainant disagrees with the Coordinator's determination in paragraph III(B)(2), the complainant may file a petition for review with the State Court Administrator within twenty (20) days of receipt by the complainant of the Coordinator's determination. The petition shall briefly state the facts that form the basis for the complaint and the complainant's reasons for believing that review is warranted. A copy of the petition shall be provided to the Coordinator.

The Coordinator shall submit to the State Court Administrator a response to the complainant's appeal of the Coordinator's determination within twenty (20) days after receipt of a copy of the complainant's petition for review.

The State Court Administrator shall make a decision on the complainant's petition within ninety (90) days after receipt of the

Coordinator's response. If the State Court Administrator determines that the complaint does allege conduct that, if true, would be grounds for discipline, the Coordinator shall proceed to investigate the complaint as provided in Section IV.

If the State Court Administrator determines that the complaint does not allege conduct that would be grounds for discipline, the State Court Administrator shall dismiss the complaint and notify the interpreter and complainant via first class mail. The notification shall include an explanation of the reason(s) for the State Court Administrator's determination that the complaint does not allege conduct that would be grounds for discipline. Such a determination by the State Court Administrator shall be final.

4. The State Court Administrator may appoint a designated officer to act on behalf of the State Court Administrator in carrying out any of the aforementioned duties in this section.

IV. PROCEDURE FOR INVESTIGATION, HEARING AND DECISION

A. Investigation

If the complaint does allege conduct that would be grounds for discipline, the CIP Coordinator shall investigate as necessary or refer the investigation to a qualified agency or individual.

As part of this investigation, the CIP Coordinator shall contact the interpreter, inform him/her of the complainant's allegations, and give the interpreter the opportunity to respond. This response shall be included in the CIP Coordinator's investigative report.

At the conclusion of the investigation, if the CIP Coordinator determines that conduct occurred that would be grounds for discipline, the CIP Coordinator shall submit a report of his/her findings to the State Court Administrator for review.

If, at the conclusion of the investigation, the CIP Coordinator determines that no conduct occurred that would be grounds for discipline, the CIP Coordinator shall dismiss the complaint and notify the interpreter and the complainant by first class mail. The notification shall include an explanation of the reason(s) for the Coordinator's determination that no grounds for discipline exist. If the complainant disagrees with the Coordinator's determination, he/she may file a petition for review with the State Court Administrator under the same procedure as outlined in Section III(B)(3) of these procedures.

B. Determination of Need for Discipline

1. If, upon reviewing the results of the investigation, the State Court Administrator determines that disciplinary action is not warranted, the State Court Administrator shall dismiss the complaint and notify the interpreter and the complainant by first class mail. The notification shall include an explanation of the reason(s) for the State Court Administrator's determination that the alleged conduct is not grounds for discipline. Such a determination by the State Court Administrator shall be final.
2. If the State Court Administrator determines that disciplinary action may be warranted, the State Court Administrator shall send to the interpreter, by certified mail, a copy of the complaint, the CIP Coordinator's report, a citation to the ethical rules which may have been violated, the sanctions deemed appropriate by the State Court Administrator, and a request for a written response to the allegations and to any specific questions posed by the State Court Administrator. Except for good cause shown, if the interpreter fails to respond in writing to the complaint and request for response within twenty (20) days of receipt of the complaint and request, the allegations in the complaint shall be deemed admitted.
3. If under Section IV(B)(2) the State Court Administrator has only recommended one or more of the sanctions listed below, the State Court Administrator shall designate a judicial officer to make a final decision based solely on the written submissions of the CIP Coordinator and the interpreter's written response:
 - a. issuing a private reprimand;
 - b. issuing a corrective order with which the interpreter must comply in order to remain on the roster;
 - c. requiring that certain education courses be taken; or
 - d. requiring that the interpreter work with a mentor or that the interpreter's work be supervised.

Sanctions shall only be imposed if the judicial officer finds that there is clear and convincing evidence that the court interpreter has violated the Code of Professional Responsibility or that there are other grounds for discipline, as set forth in Section II of these procedures. This decision must be made within ninety (90) days of receiving the written submissions by the CIP Coordinator and the interpreter. This decision shall be final, and the interpreter shall not be entitled to a hearing and shall not be entitled to appeal this decision.

4. If the judicial officer recommends any of the other sanctions set forth in Section V below, the interpreter is entitled to a hearing as provided in Section IV(C).

C. Hearing

If (a) the interpreter contests the findings in the CIP Coordinator's report and/or the State Court Administrator's recommended sanction(s); (b) the recommended sanctions are other than those listed in Section IV(B)(3); and (c) the interpreter submits a timely response in writing as provided in Section IV(B)(2), the interpreter may request, and shall be given, a hearing before a judicial officer designated by the State Court Administrator. Such a request for a hearing shall be included in the interpreter's written response to the complaint.

1. Pre hearing discovery shall not be permitted unless expressly authorized by the judicial officer in response to a written request.
2. The interpreter may be represented by counsel.
3. All hearings will occur at the Minnesota Judicial Center in Saint Paul. They shall be reported or recorded electronically, and shall be private and confidential, except upon request of the interpreter facing the allegations. Complainants, however, shall be entitled to attend the hearing.
4. Strict rules of evidence shall not apply. The judicial officer may, in his or her discretion, consider any evidence presented, including affidavits, giving such evidence the weight he or she deems appropriate.
5. At the hearing, both the CIP Coordinator and the interpreter shall be afforded the opportunity to introduce documents and other relevant evidence and to elicit sworn testimony.
6. The judicial officer may, in his or her discretion, call witnesses, consider or clarify any evidence presented, giving such evidence the weight he or she deems appropriate.

D. Decision

Within ninety (90) days after the hearing, the judicial officer shall advise the interpreter and complainant via first class mail of his or her action on the complaint. If the judicial officer's action includes sanctions against the interpreter, the judicial officer shall specifically enumerate the sanctions, the reasons for such sanctions, and the interpreter's right to appeal. If the sanctions include suspension or revocation of the interpreter's court certification or roster status or placing the interpreter at a lower qualification or skill level on the roster, the judicial officer shall specify the conditions and timeframe within which the interpreter may apply for reinstatement of his or her prior court certification or roster status.

In determining whether to impose sanctions due in whole or in part to a criminal conviction, the judicial officer must follow the guidelines set forth in Minnesota Statutes chapter 364.

V. SANCTIONS

If the judicial officer finds that there is clear and convincing evidence that the court interpreter has violated the Code of Professional Responsibility or that there are any other grounds for discipline stated in Section II of these rules, he or she shall impose such discipline or sanctions as he or she may deem appropriate. In determining the type of sanction, the judicial officer shall consider the nature and seriousness of the violation, any pattern of improper activity, the effect of the improper activity on the court interpreter system and/or the complainant, the amount of experience the interpreter has as a court interpreter, and any other mitigating or aggravating information presented. Sanctions that may be imposed include but are not limited to:

- A. Issuing a private reprimand;
- B. Issuing a public reprimand;
- C. Issuing a corrective order with which the interpreter must comply in order to remain on the roster;
- D. Imposing costs and expenses incurred by the State Court Administrator and / or Review Panel in connection with the proceeding, including investigative costs, if any;
- E. Requiring that restitution be paid;
- F. Requiring that certain education courses be taken;

- G. Requiring that one or more parts of the interpreter court certification or ethics examination be retaken;
- H. Requiring that the interpreter work with a mentor, or that the interpreter's work be supervised;
- I. Placing the interpreter at a lower qualification or skill level on the roster;
- J. Limiting the type of court hearings for which the interpreter may interpret;
- K. Suspension of interpreter court certification or roster status;
- L. Revocation of interpreter court certification or roster status.

If the sanctions include suspension or revocation of the interpreter's court certification or roster status or placing the interpreter at a lower qualification or skill level on the roster, the judicial officer shall specify the conditions and timeframe, if any, within which the interpreter may apply for reinstatement of his or her prior certification or roster status.

VI. APPEAL TO COURT INTERPRETER REVIEW PANEL

A. Court Interpreter Review Panel

The Court Interpreter Review Panel shall be composed of two district court judges and one court administrator appointed by the Chief Justice of the Minnesota Supreme Court. Members of the panel shall serve for a period to be determined by the Chief Justice.

Any Review Panel member who has a conflict of interest shall recuse himself or herself from the proceedings.

B. Appeal Process

The interpreter may appeal the judicial officer's decision only if the sanction imposed includes any of the following:

1. Public reprimand;
2. Requiring the interpreter to pay restitution or costs and expenses;
3. Requiring that one or more parts of the interpreter court certification or ethics examination be retaken;
4. Placing the interpreter at a lower qualification or skill level on the roster;
5. Limiting the type of court hearings for which the interpreter may interpret; or

6. Suspension or revocation of court certification or roster status.

The interpreter must appeal the judicial officer's decision in writing to the Court Interpreter Review Panel no later than twenty (20) days after receipt by the interpreter of the judicial officer's decision. The appeal shall include the interpreter's written objections to the decision. The State Court Administrator shall submit to the Review Panel a response to the interpreter's appeal within twenty (20) days after receipt of a copy of the appeal. The Review Panel shall review the record of the hearing within ninety (90) days after receipt of the State Court Administrator's submission to determine whether the decision reached and sanctions imposed were appropriate.

The State Court Administrator may appoint a designated officer to act on behalf of the State Court Administrator in the appeal process.

Within thirty (30) days after reaching its conclusion, the Review Panel shall issue its decision, including written findings and sanctions, if appropriate, and shall serve such decision on the interpreter and complainant via first class mail. If the Review Panel's decision includes sanctions against the interpreter, the Review Panel shall specifically enumerate the sanctions. If the sanctions include suspension or revocation of the interpreter's court certification or roster status, or placing the interpreter at a lower qualification or skill level on the roster, the Review Panel shall specify the conditions and timeframe, if any, within which the interpreter may apply for reinstatement of his or her prior certification or roster status.

VII. REINSTATEMENT

An interpreter whose court certification or roster status has been suspended or revoked may apply in writing to the State Court Administrator for reinstatement, within the timeframe established in the suspension/revocation decision or order issued by the judicial officer or Review Panel. The State Court Administrator, or his or her designated officer, shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.

VIII. CONFIDENTIALITY

All complaints and investigations shall be confidential, except that when a final determination is made to impose any of the sanctions listed in Section V above (including a determination to suspend or revoke an interpreter's certification or roster status), the final disposition, including the grounds for the sanction(s) and

the facts cited in support of the disposition, shall be accessible to the public. For purposes of this section VIII, a final determination occurs at the conclusion of the appeal proceedings before the Review Panel under Section VI above, or upon failure of the interpreter to appeal the judicial officer's decision to impose sanctions within the time provided by these Enforcement Procedures.

The State Court Administrator and Review Panel should develop a protocol for disseminating public information to judicial officers, court administrators and interpreter agencies concerning disciplinary actions taken by the State Court Administrator and Review Panel against interpreters.