
WA Court Interpreter Disciplinary Process

Washington Court
Interpreter
Commission

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Title 1 - Scope, Jurisdiction and Definitions

1.1 Purpose of Disciplinary Regulations

- a. To assure that certified and registered court interpreters meet and maintain minimum professional standards of practice, contained in Washington General Rule 11.2
- b. To establish a process for the Interpreter Commission to review grievances of alleged violations of statutes, standards of practice, rules, regulations, and any other authority applicable to certified and registered court interpreters.
- c. To set out the due process protections and other procedures that allow certified and registered interpreters and the public to be protected.
- d. To ensure meaningful access to justice services and promote public trust and confidence in the courts.

1.2 Jurisdiction

Any interpreter receiving certified or a registered credential by the Administrative Office of the Courts in this state is subject to these Rules in relation to their interpreting performed for legal proceedings. Jurisdiction exists regardless of the interpreter's residency.

1.3 Grounds for Disciplinary Action

These rules govern the procedure by which an Washington court certified or registered interpreter may be subjected to disciplinary sanctions or actions for violation of the General Rule 11.2 Code of Conduct for Court Interpreters, other judicial branch policies or procedures, or the following reasons:

- (a) Commission of any act that constitutes a felony or misdemeanor;
- (b) Fraud, dishonesty, or corruption that is related to the functions and duties of a court interpreter;
- (c) Continued false or deceptive advertising after receipt of notification to discontinue;
- (d) Knowing and willful disclosure of confidential or privileged information obtained while servicing in an official capacity;
- (e) Gross incompetence; ;
- (f) Repeated failure to appear for scheduled court proceedings without good cause;
- (g) Deliberate misrepresentation of certified or registered court interpreter credential;
- (h) Violation of duties imposed by these rules;
- (i) Failure to comply with the terms of a signed Settlement Agreement regarding discipline.

1.4 Definitions

Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:

- (a) "AOC" when used alone means staff of the Administrative Office of the Courts.
- (b) "Chair" when used alone means the Chair of the Disciplinary Committee.
- (c) "Commission" when used alone means the Interpreter Commission.
- (d) "Complaint" means the formal document, as described in section 8.3(a), filed with the AOC to initiate a contested hearing against the respondent interpreter.
- (e) "Deliberative records" are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.
- (f) "Disciplinary action" encompasses the processes described by these disciplinary regulations.
- (g) "Disciplinary Counsel" is the person who will prosecute the disciplinary action.
- (h) "File" means submitting a written document, exhibit, or other information to the AOC regarding a grievance, which will be included in the disciplinary record.
- (i) "Grievance" means the document or form submitted to the AOC to initiate a disciplinary action against an interpreter. If the Grievant is unable to submit a grievance in written form due to disability or inability to communicate in written language, it may be communicated orally to AOC staff.
- (j) "Grievant" means the person or entity who files a grievance against a court interpreter.
- (k) "Gross incompetence" means rendering services in a matter in which the interpreter is grossly incapable of performing. This shall at no time be construed to contradict the Code of Conduct for Court Interpreters, which requires interpreters to report any reservation about ability to complete an assignment competently to the parties and to the court. Such finding of gross incompetence may only be found upon the conclusion of at least one expert who holds the same credential in the same language, such as Washington State court interpreter certification or registered status.
- (l) "Interpreter" means an interpreter who is certified or registered by the Administrative Office of the Courts.
- (m) "Investigative records" are records related to an investigation pursuant to these disciplinary regulations, into the conduct of the professional interpreter, prior to the imposition of any disciplinary sanction or dismissal.
- (n) "Motion" means a written request that the Disciplinary Committee or Commission make a specified ruling or order.
- (o) "Party" means respondent interpreter and the AOC.
- (p) "Respondent" means a certified or registered court interpreter against whom a grievance is filed.
- (q) Words of authority.
 - (1) "May" means "has discretion to," "has a right to," or "is permitted to".
 - (2) "Must" and "Shall" means "is required to".
 - (3) "Should" means recommended but not required.

1.5 Statute of Limitation

Except for an aggravated felony or a crime of moral turpitude, any grievance under these rules not filed with the AOC within three years of the alleged occurrence of misconduct shall be dismissed as untimely. Title 2 - Organization and Structure

2.1 Interpreter Commission

The Interpreter Commission has exclusive responsibility in the state to administer the interpreter discipline process and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of interpreter discipline. Persons carrying out the functions set forth in these rules act under the Interpreter Commission's authority.

- (a) Function. The Interpreter Commission:
 - (1) supervises the general functioning of the Disciplinary Committee;
 - (2) makes appointments, removes those appointed, and fills vacancies as provided in these rules;
 - (3) performs other functions and takes other actions provided in these rules, delegated by the Supreme Court in General Rule 11.1, or necessary and proper to carry out its duties; and
 - (4) is responsible for hearing appeals of Disciplinary Committee decisions that are appealable pursuant to these rules.

- (b) Restriction on Representing Respondents. Former members of the Interpreter Commission are subject to the restrictions on representing respondents in rule 2.2(f).

2.2 Disciplinary Committee

- (a) Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Interpreter Commission, or necessary and proper to carry out its duties. These functions include, but are not limited to, investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not allow family, social, or other relationships to influence their conduct or judgment.

- (b) Membership. The Disciplinary Committee consists of not fewer than three members, appointed by the Chair, one of whom shall be an interpreter member of the Commission. At least one of the members must have substantial experience in the industry. The Chair

may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work, or for other reasons. The Chair does not serve on the Disciplinary Committee.

- (c) **Terms of Office.** A Commission member may serve as a Disciplinary Committee member as long as the member is on the Commission or for other shorter terms as determined by the Chair to be appropriate.
- (d) **Disciplinary Committee Chair.** The Chair of the Interpreter Commission designates one member of the Disciplinary Committee with judicial experience to act as its Chair.
- (e) **Meetings.** The Disciplinary Committee meets at times and places determined by the Disciplinary Committee Chair. In the Disciplinary Committee Chair's discretion, the Disciplinary Committee may meet and act through electronic, telephonic, written, or other means of communication.
- (f) **Disqualification of Disciplinary Committee Members.** A Disciplinary Committee member should disqualify him or herself from a particular matter in which the member's impartiality might reasonably be questioned, including, but not limited to, instances in which:
 - (1) the member has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the matter; or
 - (2) the member or a person residing in the member's household, has an economic interest in the subject matter in controversy or is a party to the matter, or has any other interest that could be substantially affected by the outcome of the matter.

2.3 Conflicts Review Committee

- (a) The Conflicts Review Committee (CRC) shall have three members appointed by the Commission Chair, who shall also designate the committee Chair. CRC members may not be current members of the Commission. CRC members shall be familiar with interpreter practice in the state of Washington.
- (b) The AOC shall transmit any grievance against a Commission member to the CRC. The CRC shall perform the duties that would otherwise be performed by the Disciplinary Committee under these regulations and AOC shall report to the CRC on any such grievance.
- (c) The CRC may also recommend to the Commission Chair that the Commission member under investigation be placed on a leave of absence from the Commission during its investigation. The CRC will consider the nature of the allegations against the Commission member, the available evidence regarding those allegations and the importance of

maintaining public trust and confidence in the Commission in making its recommendation to the Commission Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Commission Chair shall have the sole discretion to decide whether the Commission member should take a leave of absence from the Commission and when the Commission member may return to the Commission.

- (d) If the Commission files a complaint against a Commission member, the Commission member shall take a leave of absence from the Commission until the conclusion of the disciplinary proceeding.
- (e) Consistent with AOC policy, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.
- (f) Access to Disciplinary Information. CRC members have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. CRC members shall return original files to the AOC promptly upon completion of the duties required by these rules and shall not retain copies.
- (e) Independence. CRC members act independently of disciplinary counsel and the Commission.

2.4 Disciplinary Counsel

The Attorney General's Office will serve as disciplinary counsel on the Commission's behalf, on all matters identified under these rules, and perform other duties as required by these rules. Special disciplinary counsel may be appointed whenever necessary to conduct an individual investigation or proceeding.

2.5 Respondent Interpreter

- (a) Right to Representation. An interpreter may be represented by counsel during any stage of an investigation or proceeding under these rules at the interpreter's expense.
- (b) Restrictions on Representation of Respondent. A former Interpreter Commission member cannot represent a respondent interpreter in any proceeding under these rules until three years after leaving the Commission. A former Conflict Review Committee member cannot represent a respondent interpreter in any proceeding under these rules until one year after concluding work on the Conflict Review Committee.
- (c) Restriction on Charging Fee to Respond to Grievance. A respondent interpreter may not seek to charge a grievant a fee or recover costs from a grievant for responding to a grievance unless otherwise permitted by these rules.

- (d) Medical and Psychological Records. A respondent interpreter must furnish written releases or authorizations to permit access to medical, psychiatric, or psychological records as may be relevant to the investigation or proceeding. A respondent interpreter may make a motion to the Disciplinary Committee to limit the scope of the requested releases or authorizations for good cause shown.

Title 3 – Access and Notice

3.1 Open Meetings and Public Disciplinary Information

- (a) Open Meetings. Formal disciplinary hearings are public. Review of those decisions by the whole Commission is public. Deliberations of the Commission, the Disciplinary Committee, and matters made confidential by other provisions of these rules, are not public.
- (b) Public Disciplinary Information. The public has access to the following information subject to these rules:
 - (1) all records before the Disciplinary Committee and the orders of the Disciplinary Committee in any matter that the Committee has ordered to hearing or that resulted in a disciplinary sanction.
 - (2) the record upon distribution to the Disciplinary Committee or to the Supreme Court in proceedings based on a conviction of a felony or serious crime, as defined in rule 11.1(a);
 - (3) a Settlement Agreement under section 7 providing for imposition of a disciplinary sanction is confidential until approved. An approved Settlement Agreement is public.
- (c) Regulations. Public access to file materials and proceedings permitted by this rule may be subject to reasonable regulation as to time, place, and manner of access. Access will be governed by AOC public records policies.

3.2 Confidential Disciplinary Information

- (a) Scope of Confidentiality. All disciplinary materials are public with the following exceptions:
 - (1) Personal information of individuals, such as social security number, financial information, health information, and date of birth. Other personal information of individuals such as residential address, residential telephone number, and personal email address unless these are used for business purposes.
 - (2) Investigative records compiled by the AOC, Disciplinary Counsel or the Disciplinary Committee while a disciplinary investigation is in process under the Commission’s rules and regulations;

- (3) Investigative records compiled by the AOC, Disciplinary Counsel or the Disciplinary Committee, the nondisclosure of which is essential to effective law enforcement;
 - (4) Deliberative records compiled by the Disciplinary Committee and Commission or a panel or committee of the Commission as part of a disciplinary process;
 - (5) Certain personal and other records of an individual such that disclosure would be highly offensive to a reasonable person and is of no legitimate concern to the public.
 - (6) Dismissed grievances shall be disclosed upon written request using established procedures for inspection, copying, and disclosure with identifying information about the grievant, interpreter and/or limited English proficient person(s) redacted.
- (b) Protective Orders. To protect a compelling interest of a grievant, witness, third party, respondent interpreter, or other participant in an investigation, on motion and for good cause shown, the Chair of the Disciplinary Committee may issue a protective order prohibiting the disclosure or release of specific information, documents, or pleadings, and direct that the proceedings be conducted so as to implement the order. Filing a motion for a protective order stays the provisions of this title as to any matter sought to be kept confidential until five days after a ruling is served on the parties. The Commission Chair reviews decisions granting or denying a protective order if either the respondent interpreter, or disciplinary counsel requests a review within five days of service of the decision. On review, the Commission Chair may affirm, reverse, or modify the protective order. The Commission Chair's decision is subject to AOC review. A request for review by the Commission Chair stays the provisions of this title as to any matter sought to be kept confidential in that request, and the request itself is confidential until a ruling is issued.

3.3 Release or Disclosure of Otherwise Confidential Information

- (a) Investigative Disclosure. AOC staff performing duties under these rules may disclose information as necessary to conduct the investigation or to keep a grievant advised of the status of a matter except as prohibited by court order, or other applicable law.
- (b) Discretionary Release. The Disciplinary Committee Chair may authorize the general or limited release of any confidential information obtained during an investigation when it appears necessary to protect the interests of grievants, the public, or the integrity of the disciplinary process. A respondent must be given notice of a decision to release information under this section before its release unless the Disciplinary Committee Chair finds that notice would jeopardize serious interests of any person or the public, or that the delay caused by giving the respondent notice would be detrimental to the integrity of the disciplinary process.
- (c) Cooperation with Enforcement Authorities. Information or testimony may be released to authorities in any jurisdiction authorized to investigate alleged criminal activity or other

governmental regulatory bodies.

3.4 Notice of Discipline

- (a) Notice to Courts. The AOC must provide all relevant courts with notice of any disciplinary sanction regarding an interpreter.
- (b) Notice to the public. The AOC has discretion in posting information about disciplinary sanctions on the Court Interpreter Program web site consistent with the rules governing public disclosure, but it must publish notice of the revocation or suspension of interpreters. The Commission may adopt formal publishing policies from time to time as consistent with this rule. These notices regarding disciplinary sanctions should include sufficient information to adequately inform the public and court interpreters about the misconduct found, the rules violated and the disciplinary action imposed.
- (c) Notice to Other Licensing Agencies. The AOC has discretion to notify other licensing agencies or regulatory bodies regarding any disciplinary sanctions imposed.

3.5 Maintenance of Records

Records of any disciplinary action and investigative files shall be maintained in accordance with AOC's record retention policy.

Title 4 - General Procedural Rules

4.1 Service of Papers

- (a) Service Required. Every pleading, every paper relating to discovery, every written request or motion other than one which may be heard ex parte, and every similar paper or document issued by disciplinary counsel, the AOC or the respondent interpreter under these rules must be served on the opposing party. If a hearing is pending, the party also must serve a copy on the Disciplinary Committee. Service on the Commission or the Disciplinary Committee of any pleadings, notices or other documents may be made by delivery or mailing to the Administrative Office of the Courts, 1112 Quince Street SE, P.O. Box 41170, Olympia, WA 98504-1170 during regular business hours.
- (b) Methods of Service.
 - (1) Service by Mail.
 - (A) Service may be accomplished by postage prepaid mail. If properly made, service by mail is deemed accomplished on the date of mailing and is effective regardless of whether the person to whom it is addressed actually receives it.

- (B) Except as provided below, service by mail must be by certified or registered mail, return receipt requested. Service may be by first class mail if:
- (i) the parties so agree;
 - (ii) the document is a notice of dismissal, deferral, or request for review of dismissal or deferral;
 - (iii) one or more properly made certified mailings is returned as unclaimed; or
 - (iv) service is on the AOC on behalf of the Disciplinary Committee or the Commission.

- (C) The address for service by mail is as follows:
- (i) for the respondent, or his or her attorney of record, the address in the answer, a notice of appearance, or any subsequent document filed by the respondent or his or her attorney; or, in the absence of an answer, the respondent's address on file with the AOC;
 - (ii) for disciplinary counsel, at the address of the AOC or other address that disciplinary counsel requests.

(2) Service by Delivery. If service by mail is permitted, service may instead be accomplished by leaving the document at the address for service by mail.

(c) Proof of Service. If personal service is permitted, proof of service may be made by affidavit of service, or a signed acknowledgment of service.

4.2 Filing; Orders

(a) Filing Originals. The original of any pleading, motion, or other paper authorized by these rules, other than discovery, must be filed with the AOC.

(b) Filing and Service of Orders. Any written order, decision, or ruling must be filed with the AOC, and the AOC serves it on the respondent lawyer and disciplinary counsel.

4.3 Papers

All pleadings or other papers must be typewritten or printed, double spaced, on good quality 8½ by 11-inch paper. The use of letter-size copies of exhibits is encouraged if it does not impair legibility.

4.4 Computation of Time

(a) Computing. In computing any period of time prescribed or allowed by these rules, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a

Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

- (b) Additional Time after Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

4.5 Stipulation to Extension or Reduction of Time

Except for notices of appeal, the respondent interpreter, disciplinary counsel or the AOC may stipulate in any proceeding to extension or reduction of the time requirements.

Title 5 - Grievance Investigation

5.1 Grievants

- (a) Filing of Grievance.
 - (1) Any person or entity may file a grievance, as defined in section 1.4(f), against a court interpreter who is registered or certified by the AOC.
 - A. The identity of the person bringing the grievance will be held confidential unless, in the discretion of the Disciplinary Committee Chair, the grievant's identity must be revealed for good cause.
 - B. If the matter goes to hearing and the grievant's testimony is required, the grievant's Identity as a witness is not confidential. The fact that he/she brought the grievance will remain confidential.
 - (2) The Disciplinary Committee Chair may open a grievance based on any information obtained by the AOC or the Commission.
- (b) Consent to Disclosure. By filing a grievance, the grievant consents to disclosure of the nature of the allegations to the respondent interpreter or to any other person contacted during the investigation.
- (c) Grievant Rights. A grievant has the following rights:
 - (1) to be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;
 - (2) to have a reasonable opportunity to speak with the person assigned to the grievance, by telephone or in person, about the substance of the grievance or its status;
 - (3) to submit additional supplemental written information or documentation at any time;
 - (4) to attend any hearing conducted into the grievance;
 - (5) to provide relevant testimony at any hearing conducted into the grievance;
 - (6) to be advised of the disposition of the grievance; and

- (7) after supplying additional information in reference to the grievance, to request reconsideration of a dismissal of the grievance as provided in rule 6.2;
- (d) Grievant Duties. A grievant has the duty to do the following, or the grievance may be dismissed:
 - (1) give the person assigned to the grievance documents or other evidence in his or her possession, and witnesses' names and addresses;
 - (2) assist in securing relevant evidence, which may include signing releases; and
 - (3) appear and testify at any hearing resulting from the grievance.

5.2 Investigation of Grievance

- (a) Review and Investigation. The AOC must review any alleged or apparent misconduct by an interpreter. The AOC shall conduct an initial investigation to ensure that any received grievance is complete, meets jurisdictional requirements as defined in section 1.3, and provides sufficient factual information to warrant further consideration. The initial investigation may include but is not limited to: contacting witnesses, reviewing records, contacting the interpreter and requesting documents.
- (b) Dismissal. With approval of the Disciplinary Committee Chair, the AOC may dismiss a grievance which fails to provide sufficient factual information, fails to meet jurisdictional requirements, or fails to identify an action which would result in a sanction.
- (c) Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance: the unwillingness of a grievant to continue the grievance, the withdrawal of the grievance, a compromise between the grievant and the respondent, or restitution by the respondent.
- (d) Deferral.
 - (1) An investigation into alleged acts of misconduct by an interpreter may be deferred by the Chair of the Discipline Committee or AOC staff with the approval of the Chair of the Discipline Committee if it appears that the deferral will not endanger the public and:
 - (A) the allegations are related to pending civil or criminal litigation;
 - (B) the respondent interpreter is physically or mentally unable to respond to the investigation; or
 - (C) for other good cause shown.
 - (2) The AOC must inform the grievant and respondent of a decision to defer or a denial of a request to defer and of the procedure for requesting review. A grievant or respondent may request review of a decision on deferral. If review is requested, the AOC refers the matter to the Discipline Committee for reconsideration of the decision on deferral. To request review, the grievant or respondent must deliver or deposit in the mail a request for review to the Commission no later than 45 days after the AOC mails the notice regarding deferral.

- (e) **Duty To Furnish Prompt Response.** The respondent interpreter must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation. Upon inquiry or request, the respondent interpreter must:
 - (1) furnish in writing, or orally if requested, a full and complete response to inquiries and questions;
 - (2) furnish copies of requested records, files, and accounts; and
 - (3) furnish written releases or authorizations if needed to obtain documents or information from third parties.

- (f) **Failure to Cooperate.**
 - (1) **Interim Suspension.** If an interpreter has not complied with any request made under section (e) for more than 30 days, the AOC may notify the interpreter that failure to comply within ten days may subject the interpreter to interim suspension under rule 11.2.
 - (2) **Grounds for Discipline.** An interpreter's failure to cooperate fully and promptly with an investigation as required by section (e) is also grounds for discipline.

5.3 Privileges

- (a) **Privilege Against Self-Incrimination.** An interpreter's duty to cooperate is subject to the interpreter's privilege against self-incrimination, where applicable.

- (b) **Confidential Information.** An interpreter may not assert confidentiality under the Code of Conduct for Court Interpreters or other prohibitions on revealing confidences or secrets as a basis for refusing to provide information during the course of an investigation, but information obtained during an investigation involving confidences or secrets must be kept confidential to the extent possible under these rules unless the client otherwise consents.

Title 6 - Review by Disciplinary Committee

6.1 Review of Grievance

Within thirty days of the AOC receiving the written grievance, the Disciplinary Committee shall review all initial investigations not dismissed pursuant to section 5.2(b). If the Disciplinary Committee determines that there is insufficient information, it may request the AOC to conduct further investigation, which shall be completed and brought to the committee's review within thirty days. Once the Disciplinary Committee has determined that it has sufficient information regarding the allegation, it must either dismiss the grievance pursuant to section 6.2, or submit a summary of the allegations and supporting information, accompanied by these rules, to the interpreter and request a response pursuant to 6.3.

6.2 Dismissal of Grievance by Disciplinary Committee

- (a) Dismissal. The Chair of the Disciplinary Committee or the AOC with the approval of the Chair of the Disciplinary Committee may dismiss grievances. On dismissal, the AOC must notify
- (1) the respondent of the allegations and dismissal of the grievance; and
 - (2) the grievant of the outcome and the procedure for review in this rule.
- (b) Review of Dismissal. A grievant may request review of dismissal of the grievance after obtaining new or additional evidence, by sending a request for review and the new evidence to the AOC no later than 45 days after the new or additional evidence is discovered. If review is requested, the Chair of the Discipline Committee may either reopen the matter for investigation or refer it to the Discipline Committee.
- (c) Authority on Review. In reviewing grievances under this rule, the Discipline Committee may:
- (1) affirm the dismissal;
 - (2) order further investigation as may appear appropriate.

6.3 Response to Disciplinary Committee

The interpreter shall have twenty days to respond to the allegations and provide any mitigating information. This response and information shall be sent to the AOC. Should the interpreter require more time to adequately respond, the interpreter shall make a request in writing to the Disciplinary Committee Chair stating the reasons for such an extension. The Disciplinary Committee Chair will make a determination within five days of receiving the request.

6.4 Preliminary Findings

Within thirty days of receiving the interpreter's response, the Disciplinary Committee shall meet and review all information obtained in the investigation, including information submitted by the respondent, and determine whether the facts are sufficient to support a preliminary finding by a preponderance of the evidence that the respondent engaged in misconduct. The factual basis for preliminary findings can only be made based on information that the respondent had the opportunity to review and respond to. The Disciplinary Committee may dismiss the matter, or precede under sections 7 or 8.

Title 7 – Resolutions without Complaint

Grievances can be resolved without complaint by advisory letter, Settlement Agreement, or voluntary resignation.

7.1 Advisory Letter

An advisory letter may be issued when a complaint is not warranted but it is appropriate to caution a respondent interpreter concerning his or her conduct. An advisory letter does not

constitute a finding of misconduct, is not a sanction, is not disciplinary action, and is not public information unless otherwise provided by court rule.

7.2 Settlement Agreements

- (a) Requirements. Any disciplinary matter or proceeding may be resolved by a Settlement Agreement at any time. The Settlement Agreement must be signed by the respondent interpreter and the AOC or disciplinary counsel, and approved by the Disciplinary Committee.
- (b) Form. A Settlement Agreement must:
 - (1) provide sufficient detail regarding the particular acts or omissions of the respondent to permit the Disciplinary Committee to form an opinion as to the propriety of the proposed resolution, and, if agreed to, to make the Settlement Agreement useful in any subsequent disciplinary proceeding against the respondent;
 - (2) set forth the respondent's prior disciplinary record or its absence;
 - (3) state that the Settlement Agreement is not binding on the Disciplinary Committee as a statement of facts about the respondent's conduct, and that additional facts may be proved in a subsequent disciplinary proceeding;
 - (4) fix the amount of costs and expenses, if any, to be paid by the respondent; and
 - (5) may impose terms and conditions and contain any other appropriate provisions.
- (c) Approval. The Disciplinary Committee must approve a Settlement Agreement disposing of a pending matter. This approval constitutes a final decision and is not subject to further review.
- (d) Response. Upon receipt, the interpreter must respond in writing within 30 days to the proposed Settlement Agreement. The interpreter may:
 - (1) agree to and sign the Settlement Agreement;
 - (2) propose changes to the Settlement Agreement;
 - (3) reject the Settlement Agreement and request a hearing; or
 - (4) voluntarily resign.
- (e) Failure To Comply. A respondent's failure to comply with the terms of a signed Settlement Agreement may be grounds for discipline.

7.3 Voluntary Resignation while Disciplinary Action is Pending

- (a) Grounds. A respondent interpreter who desires not to contest or defend against allegations of misconduct may, at any time, voluntarily resign his or her certification or registered credential in lieu of further disciplinary proceedings.
- (b) Process. The respondent first notifies the AOC or disciplinary counsel that the respondent intends to submit a voluntary resignation request and asks the AOC or disciplinary counsel

to prepare a statement of alleged misconduct and to provide a declaration of costs. After receiving the statement and the declaration of costs, if any, the respondent may resign by submitting to disciplinary counsel or the AOC a signed voluntary resignation, sworn to or affirmed under oath and notarized, that:

- (1) includes disciplinary counsel's or the AOC's statement of the alleged misconduct and either an admission of that misconduct or a statement that while not admitting the misconduct the respondent agrees that the Commission could prove by a clear preponderance of the evidence that the respondent committed violations sufficient to result in the finding of misconduct that will likely justify a disciplinary sanction;
 - (2) acknowledges that the voluntary resignation may be permanent including the statement: "I understand that my voluntary resignation may be permanent and that any future application by me for reinstatement as a court interpreter will consider the circumstances surrounding this resignation.";
 - (3) assures that the respondent will:
 - (A) notify all other professional interpreter agencies from which the respondent receives assignments, and associations that list the respondent's name and court interpreter credential of the voluntary resignation; and
 - (B) provide disciplinary counsel or the AOC with copies of any of these notifications and any responses;
 - (4) states that when applying for any employment as an interpreter or court interpreter credential the respondent agrees to disclose the voluntary resignation in response to any question regarding disciplinary action;
 - (5) states that the respondent agrees to pay any restitution or additional costs and expenses ordered by the Disciplinary Committee, and attaches payment for costs as described in section (f) below; and
 - (6) states that when the voluntary resignation becomes effective, the respondent will be subject to all restrictions that apply to an interpreter whose certification or registered credential has been revoked.
- (c) Public Filing. Upon receipt of a voluntary resignation meeting the requirements set forth above, the AOC shall promptly file it as a public record of the Disciplinary Committee.
- (d) Effect. A voluntary resignation under this rule is effective upon its filing with the AOC. All disciplinary proceedings against the respondent terminate except the AOC or disciplinary counsel has the discretion to continue any investigations deemed appropriate under the circumstances to create a sufficient record of the respondent's actions for consideration in the event the respondent seeks credentialing at a later time.

- (e) Costs and Fees.
 - (1) With the voluntary resignation, the respondent may be required to pay all actual costs and fees (as described in section 9.8) for which disciplinary counsel or the AOC provides documentation.
 - (2) If an additional proceeding is pending at the time respondent serves the notice of intent to voluntarily resign, disciplinary counsel may also file a claim under section (g) for costs and fees for that proceeding.
- (f) Review of Costs, Fees, and Restitution. Any claims for restitution or for costs and expenses against the respondent interpreter, not resolved by agreement between the AOC or disciplinary counsel and the respondent, must be submitted within 20 days of finalizing the disciplinary action, including after the voluntary resignation. Claims shall be submitted in writing to the AOC for the Disciplinary Committee's determination of appropriate restitution or costs and expenses. A copy of written claims for restitution, costs or expenses must be served upon the respondent interpreter, who has a period of 20 days to provide a written response to challenge any claims. The Disciplinary Committee will review the written response and make a final determination. The Disciplinary Committee's order is not subject to further review and is the final assessment of restitution or costs and expenses.

Title 8 - Resolution with a Complaint

8.1 General Procedure

- (a) Applicability of Civil Rules. The civil rules for the Superior Courts of the State of Washington serve as guidance in proceedings under this title and, where indicated, apply directly. A party may not move for summary judgment.
- (b) Meaning of Terms in Civil Rules. In applying the civil rules to proceedings under these rules, terms have the following meanings:
 - (1) "Court" or "judge" means the Disciplinary Committee or its Chair, as appropriate; and
 - (2) "Parties" means the respondent interpreter and AOC.

8.2 Disciplinary Committee Disqualification

Either party may seek to disqualify any Disciplinary Committee member for good cause. A motion under this subsection must be filed promptly after the party knows, or in the exercise of due diligence should have known, of the basis for the disqualification. The Interpreter Commission Chair decides all requests for disqualification. Upon disqualification of an assigned Disciplinary Committee member, the Chair assigns a replacement.

8.3 Commencement of Proceedings

(a) Complaint.

- (1) Filing. After a preliminary finding of misconduct pursuant to 6.4, and a matter is not resolved pursuant to section 7, disciplinary counsel files a Complaint with the AOC. The Complaint must be filed within 90 days of a preliminary finding of misconduct. An extension of time may be granted in writing by the Disciplinary Committee Chair upon a finding of good cause.
- (2) Service. After the Complaint is filed, the AOC must serve the Complaint with a Notice to Answer on the respondent interpreter by both postal and electronic mail, at the last known addresses.
- (3) Content. The Complaint must state the respondent's acts or omissions in sufficient detail to inform the respondent of the nature of the allegations of misconduct, and the sanction sought. Disciplinary counsel must sign the Complaint.
- (4) Prior Discipline. Prior disciplinary action against the respondent may be described in the Complaint.
- (5) Amendment of Complaint. Disciplinary counsel may amend the Complaint at any time to add facts or charges. The AOC shall serve an amended Complaint on the respondent as provided in rule 8.3(a)(2) with a Notice to Answer. Respondent must answer the amendments of the complaint as described in 8.5.

(b) Joinder. The Disciplinary Committee may in its discretion consolidate for hearing two or more charges against the same respondent, or may join charges against two or more respondents in one formal complaint.

8.4 Notice to Answer

(a) Content. The Notice to Answer must be substantially in the following form:

BEFORE THE DISCIPLINARY COMMITTEE OF THE
COURT INTERPRETER COMMISSION

In re) NOTICE TO ANSWER
)
_____,)
Interpreter.)

To: The above named Interpreter:

A formal complaint has been filed against you, a copy of which is served on you with this Notice. You are notified that you must file your Answer to the Complaint within 20 days of the date of service on you, by filing the original of your answer with the Administrative Office of the

Courts. Failure to file an Answer may result in the loss of your opportunity to present a defense and participate in prehearing discovery, and the imposition of a disciplinary sanction.

Pursuant to rule 8.5 of the WA Court Interpreter Disciplinary policy, the Answer must contain the following:

- (1) A specific denial or admission of each fact or claim asserted in the Complaint;
- (2) A statement of any matter or facts constituting a defense, affirmative defense, or justification, in ordinary and concise language without repetition;
- (3) Any mitigating factors as described in rule 9.1(c)(2); and
- (4) An address at which all further pleadings, notices, and other documents in the proceeding may be served on the respondent.

The Disciplinary Committee members assigned to this proceeding are: [insert names, addresses, and telephone numbers with an indication of the Chair of the committee].

Dated this _____ day of _____, 20____.

COURT INTERPRETER COMMISSION

By

Staff to the Court Interpreter Commission

Address:

Telephone:

8.5 Answer

(a) Time to Answer. Within 20 days of service of the Complaint and Notice to Answer, the respondent interpreter must file and serve an Answer. Failure to file an Answer as required may result in the respondent forfeiting his/her opportunity to present a defense or participate in prehearing discovery.

(b) Content. The Answer must contain:

- (1) a specific denial or admission of each fact or claim asserted in the Complaint;
- (2) a statement of any matter or facts constituting a defense, affirmative defense, or justification, in ordinary and concise language without repetition; and
- (3) any mitigating factors as described in rule 9.1(c)(2);
- (4) an address at which all further pleadings, notices, and other documents in the proceeding may be served on the respondent.

(c) Filing and Service. The Answer must be mailed to the AOC.

8.6 Scheduling

- (a) All disciplinary hearings must be held in Washington State at such place and time as may be directed by the Disciplinary Committee Chair. Hearings may take place by telephone or other electronic means, in the discretion of the Disciplinary Committee Chair. If possible, the parties should arrange a date, time, and place for the hearing by agreement among themselves and the Disciplinary Committee.
- (b) Scheduling Order. The Disciplinary Committee Chair must enter an order setting the dates and places of the hearing and prehearing discovery. This order will include any prehearing deadlines the Disciplinary Committee Chair deems required by the complexity of the case which may include witness lists, discovery dates, motions, and exhibits. The AOC shall ensure that the parties receive notice of the time and place of the hearing at least thirty (30) days before the hearing.
- (c) Continuance. Either party may move for a continuance of the hearing date. The Disciplinary Committee Chair has discretion to grant the motion for good cause shown.

8.7 Motions

Motions must be in writing and shall be served on the opposing party. The Disciplinary Committee Chair shall determine whether a response and reply is called for, and the timing of it. The Disciplinary Committee should promptly rule on the motion, with or without argument as may appear appropriate. Argument on a motion may be heard by conference call or other electronic means in the discretion of the Chair. A ruling on a written motion must be in writing and filed with the AOC.

8.8 Discovery and Prehearing Procedures

- (a) General. The parties should cooperate in mutual informal exchange of relevant non-privileged information to facilitate expeditious, economical, and fair resolution of the case.
- (b) Requests for Admission. After a Complaint is filed, the parties may request admissions under Washington Rules for Superior Court, Civil Rule 36.
- (c) Other Discovery. After a Complaint is filed, the parties may obtain other discovery under the Superior Court Civil Rules, only on motion and under terms and limitations the hearing officer deems just or on the parties' Settlement Agreement.

8.9 Participation at Disciplinary Hearings

- (a) Respondent Must Attend. A respondent given notice of a hearing must attend the hearing. If, after proper notice, the respondent fails to attend the hearing, the Disciplinary Committee may draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing.

- (b) Respondent Must Provide Requested Materials. Disciplinary counsel may request in writing, served on the respondent at least fourteen days before the hearing, that the respondent provide any documents, files, records, or other written materials or things. The respondent must comply with this request and failure to provide requested materials, without good cause, may be grounds for discipline.
- (c) Witnesses. Witnesses must testify under oath. Testimony must be recorded by a court reporter or, if allowed by the Disciplinary Committee Chair, by digital or tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.

8.10 Hearings

- (a) Proceedings Not Civil or Criminal. The Disciplinary Committee should be guided in their evidentiary and procedural rulings by the principle that disciplinary proceedings are neither civil nor criminal but are unique hearings to determine if an interpreter's conduct should have an impact on his or her credential to interpret in court.
- (b) Scope of the Hearings. To limit the scope of hearings, parties may stipulate to specific facts, whether misconduct occurred, and/or disciplinary sanctions. The Disciplinary Committee Chair may determine whether both facts surrounding the alleged misconduct and disciplinary sanctions shall be litigated at the same hearing, or whether they shall be addressed at separate hearings.
- (c) Upon agreement by both parties, and approval by the Disciplinary Committee chair, hearings may be limited to the disciplinary sanction only.
- (d) Burden of Proof. Disciplinary counsel has the burden of establishing an act of misconduct by a preponderance of the evidence.
- (e) Proceeding Based on Criminal Conviction. If a Complaint charges a respondent interpreter with an act of misconduct for which the respondent has been convicted in a criminal proceeding, the court record of the conviction is conclusive evidence at the disciplinary hearing of the respondent's guilt of the crime and violation of the statute on which the conviction was based.
- (f) Rules of Evidence. Consistent with section (a) of this rule, the following rules of evidence apply during disciplinary hearings:
 - (1) evidence, including hearsay evidence, is admissible if in the Disciplinary Committee's judgment it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The Disciplinary Committee may exclude evidence that is irrelevant, immaterial, or unduly repetitious;

- (2) if not inconsistent with subsection (1), the Disciplinary Committee shall refer to the Washington Rules of Evidence as guidelines for evidentiary rulings;
- (3) documents may be admitted in the form of copies or excerpts, or by incorporation by reference;
- (4) Official Notice.
 - (A) official notice may be taken of:
 - (i) any judicially cognizable facts;
 - (ii) technical or scientific facts within the Disciplinary Committee’s specialized knowledge; and
 - (iii) codes or standards adopted by an agency of the United States, of this state, or of another state, or by a nationally recognized organization or association.
 - (B) the parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material noticed and the sources thereof, including any staff memoranda and data, and they shall have an opportunity to contest the facts and material noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.
- (e) Prior Disciplinary Record. The respondent’s record of prior disciplinary action, or the fact that the respondent has no prior disciplinary action, must be made a part of the hearing record before the Disciplinary Committee files a decision.

8.11 Decision of Disciplinary Committee

- (a) Decision. Within 20 days after the proceedings are concluded, unless extended by agreement, the Disciplinary Committee should file with the parties a Decision in the form of findings of fact, conclusions of law, and order imposing disciplinary sanction.
- (b) Dissent of Committee Member. Any member of the Disciplinary Committee who dissents from the Decision of the majority of the committee should file a Dissent, which may consist of alternative findings, conclusions, or order imposing disciplinary sanction. A Dissent should be filed within ten days of the filing of the majority’s Decision and becomes part of the record of the proceedings.

Title 9 – Disciplinary Sanctions

9.1 Guidelines for Imposing Disciplinary Sanctions

Following a determination that an interpreter has engaged in misconduct, disciplinary sanctions may be appropriate. Factors to be considered in imposing disciplinary sanctions include:

- (a) Nature of the misconduct;
- (b) The potential or actual injury caused by the interpreter's misconduct; and
- (c) The existence of aggravating or mitigating factors.
 - (1) Aggravating factors include prior disciplinary action by the Disciplinary Committee against the same interpreter, substantial experience as an interpreter, intentional, premeditated, knowing, grossly incompetent, or grossly negligent act, bad faith or obstruction, dishonest or selfish motives, a pattern of misconduct, multiple offenses, failure to cooperate during the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, indifference to making restitution, and illegal conduct.
 - (2) Mitigating factors include the absence of a prior disciplinary record, timely good faith effort to make restitution or to rectify consequences of misconduct, isolated incident not likely to reoccur, time elapsed since misconduct occurred, limited experience as an interpreter, implementation of remedial measures to mitigate harm or risk of harm, self-reported and voluntary admission of violation, and temporary circumstances outside the interpreter's control.

9.2 Types of Disciplinary Sanctions

Upon a finding that a respondent interpreter has committed an act of misconduct, one or more of the following may be imposed:

- (a) Revocation of certification or registered status;
- (b) Suspension of certification or registered status;
- (c) Probation;
- (d) Restitution; and
- (e) Other disciplinary sanctions as described in 9.7.

9.3 Revocation of Certification or Registered Status

- (a) Definition. Revocation of certification or registered status is the permanent removal of the court interpreter's credential with the AOC. The Disciplinary Committee must specify whether the respondent interpreter is eligible to apply for certification or registered status with the AOC in the future.
- (b) Approval by Commission Chair. The Disciplinary Committee's decision to revoke certification or registered status must be approved by the Chair of the Interpreter Commission.
- (c) Applicability of Revocation. Revocation is generally appropriate when an interpreter engages in serious misconduct, such as directly violating rules or regulations, causing injury or potential injury, demonstrating gross incompetence, engaging in criminal conduct,

multiple findings of misconduct, or engaging in intentional misconduct that involves dishonesty, fraud, deceit or misrepresentation.

- (d) Duties on revocation. If the respondent is scheduled to interpret for any court hearings after imposition of revocation, the interpreter shall immediately notify those courts of his/her revocation. The respondent shall immediately cease holding him/herself out to the public as a Washington court certified or registered interpreter, and return the AOC-issued badge identifying him/her as a certified or registered court interpreter.

9.4 Suspension

- (a) Definition. Suspension of certification or registered status is the removal of the court interpreter's credential with the AOC for a fixed period of time.
- (b) Applicability of Suspension. Suspension is generally appropriate when an interpreter engages in serious misconduct, such as directly violating rules or regulations, causing injury or potential injury, demonstrating gross incompetence, engaging in criminal conduct, multiple findings of misconduct, or engaging in intentional misconduct that involves dishonesty, fraud, deceit or misrepresentation. The imposition of suspension or revocation as an appropriate sanction will likely depend on the mitigating and/or aggravating factors.
- (c) Term of Suspension. A suspension must be for a fixed period of time and specifically state what requirements, if any, must be completed prior to the interpreter respondent's reinstatement. Suspension does not affect the requirement to comply with other program policies such as continuing education.
- (d) Reinstatement. Before the conclusion of the suspension period, the respondent shall submit to the AOC a written request for reinstatement. The request shall include a statement verifying that the conditions of the suspension have been met. With approval of the Disciplinary Committee Chair, the AOC shall reinstate the interpreter's certification or registered status.
- (e) Duties on Suspension. If the respondent is scheduled to interpret for any court hearings during the period of suspension, or for case types identified in the suspension order, the interpreter shall immediately notify those courts of his/her suspension. The respondent shall immediately cease holding him/herself out to the public as a Washington court certified or registered interpreter during the period of suspension, and return the AOC-issued badge identifying him/her as a certified or registered court interpreter.

9.5 Probation

- (a) Probation as a Disciplinary Sanction. After making a finding of misconduct, the Disciplinary Committee may place a respondent interpreter on probation for a fixed period of two years

or less. The Disciplinary Committee may impose requirements which must be followed to successfully complete probation including, but not limited to, the items listed in section 9.7

- (1) The Disciplinary Committee must specify in writing the probation requirements, any additional terms, and the resulting sanction for failure to comply.
- (2) The Disciplinary Committee Chair may appoint a suitable person to monitor that conditions of the probation are being met. Cooperation with a person so appointed is a condition of the probation.
- (3) Failure to Comply. Failure to comply with a condition of probation may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the probation.

9.6 Restitution

- (a) Restitution Defined. Restitution is the payment of the victim's out-of-pocket expenses directly related to the respondent's misconduct.
- (b) Restitution May Be Required. After a finding of misconduct, a respondent interpreter may be ordered to make restitution to persons financially injured by the respondent's conduct.
- (c) Payment of Restitution.
 - (1) A respondent ordered to pay restitution, who has not filed a Challenge to Assessment, must make payment within 30 days of the date on which the decision requiring restitution becomes final. Payment may be later if the decision provides otherwise, the respondent enters into a periodic payment plan with the AOC, or the restitution is stayed pending appeal.
 - (2) The AOC may enter into an agreement with a respondent for a reasonable periodic payment plan if:
 - (A) the respondent demonstrates in writing present inability to pay restitution and
 - (B) the AOC consults with the persons owed restitution.
 - (3) A respondent may ask the Disciplinary Committee Chair to review an adverse determination by the AOC of the reasonableness of a proposed periodic payment plan for restitution. The Chair directs the procedure for this review. The Disciplinary Committee Chair's ruling is not subject to further review.
- (d) Challenge to Restitution. A respondent interpreter who wishes to challenge the restitution order must submit a written statement challenging the order. The written statement must provide details on why the restitution was inappropriate or how it was miscalculated. The written statement must be submitted to the AOC within twenty days of receiving the order

of restitution. The Disciplinary Committee will review the written submission and make a final determination on restitution.

- (e) Failure to Comply. A respondent's failure to make restitution when ordered to do so, or to comply with the terms of a periodic payment plan may be grounds for discipline.

9.7 Other Disciplinary Sanctions

- (a) Upon a finding that a respondent interpreter has committed an act of misconduct, one or more of the following may be imposed:

- (1) Limitation on practice;
- (2) Requirement that specific education courses or training be taken;
- (3) Alcohol or drug treatment;
- (4) Behavior modification classes;
- (5) Professional office practice or management counseling;
- (6) Periodic audits or reports;
- (7) Requirement that court interpreting work be supervised;
- (8) Requirement that court interpreter credential exams be retaken;
- (9) Other requirements consistent with the purposes of interpreter discipline; or
- (10) Letter of reprimand.

- (b) The Disciplinary Committee must specify the terms and requirements in writing.
- (c) Failure to Comply. Failure to comply with terms and requirements may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the discipline.

9.8 Costs and Fees

- (a) Assessment. The Commission's costs and fees may be assessed as provided in this rule against any respondent interpreter who is disciplined.
- (b) Costs Defined. The term "costs" for the purposes of this rule includes all monetary obligations, except fees as defined below, reasonably and necessarily incurred by the Commission in the complete performance of its duties under these rules, whether incurred before or after the filing of a formal complaint. Costs include, by way of illustration and not limitation:
 - (1) court reporter charges for attending and transcribing depositions or hearings;
 - (2) necessary travel expenses of disciplinary counsel, the Disciplinary Committee, AOC staff, or witnesses;
 - (3) expert witness charges;
 - (4) costs of conducting an examination of books and records or an audit;
 - (5) costs incurred in supervising probation imposed under rule 9.5;

- (6) telephone toll charges; and
 - (7) costs of copying materials.
- (c) Fees Defined. Fees for the purposes of this rule mean a reasonable charge for disciplinary counsel fees. Fees assessed under this rule may equal the actual fees incurred by the AOC, or an amount reached by mutual agreement between the parties.
- (d) Statement of Costs and Fees, Exceptions, and Reply.
- (1) Content. A statement of costs and fees must state with particularity the nature and amount of the costs claimed and also state the fees requested. Disciplinary counsel must sign the statement, and this signature constitutes a certification that all reasonable attempts have been made to insure the statement's accuracy.
 - (2) Service. The AOC serves a copy of the statement on the respondent.
- (e) Assessment Discretionary. Assessment of any or all costs and fees may be waived if it appears in the interests of justice to do so.
- (f) Challenge to Assessment. A respondent interpreter who wishes to challenge the assessment for costs and fees must submit a written statement challenging the assessment. The written statement must provide details on why the costs and/or fees are inappropriate or miscalculated. The written statement must be submitted to the AOC within twenty days of receiving notice of the assessment. The Disciplinary Committee will review the written submission and make a final determination on costs and fees.
- (g) Payment of Costs and Fees.
- (1) A respondent ordered to pay costs and fees, who has not filed a Challenge to Assessment, must make payment within 30 days of the date on which the assessment becomes final. Payment may be later if the order provides otherwise, or the respondent enters into a periodic payment plan with the AOC.
 - (2) The AOC may enter into an agreement with a respondent for a reasonable periodic payment plan if the respondent demonstrates in writing present inability to pay assessed costs and fees.
 - (3) A respondent may ask the Disciplinary Committee Chair to review an adverse determination by the AOC of the reasonableness of a proposed periodic payment plan. The Chair directs the procedure for this review. The Disciplinary Committee Chair's ruling is not subject to further review.
- (g) Failure to Comply. A respondent's failure to pay costs and fees when ordered to do so or to comply with the terms of a periodic payment plan may be grounds for discipline.

Title 10 - Appeal

10.1 Decisions Subject to Appeal

- (a) Decision. For purposes of this title, “Decision” means the Disciplinary Committee’s findings of fact, conclusions of law, and recommendation, including any Dissent.
- (c) Review of Decision. The Interpreter Commission reviews any decision if either party files a written Notice of Appeal within 30 days of the final Decision and shall act as the appellate body. The Disciplinary Committee members shall recuse themselves from all appellate proceedings.
- (c) Notice of Appeal. The Notice of Appeal must include the following:
 - (1) a statement that an appeal is being requested;
 - (2) the portion(s) of the Decision to be challenged;
 - (3) the general basis for the appeal;
 - (4) whether a full or partial transcript should be ordered pursuant to 10.3.
- (d) Stay of Disciplinary Sanctions. At the discretion of the Chair, any sanctions imposed by the Disciplinary Committee may be stayed during the pendency of the appeal.

10.2 Transcript of Hearing

- (a) Ordering Transcript. If an appeal is filed, disciplinary counsel must order the entire transcript unless the parties agree that no transcript or only a partial transcript is necessary for review.
- (b) Filing and Service. The original of the transcript is filed with the AOC and served upon the respondent.
- (c) Proposed Corrections. Within ten days of service of a copy of the transcript on the respondent, or within ten days of filing the transcript if the respondent ordered the transcript, each party may file any proposed corrections to the transcript. Each party has five days after service of the opposing party’s proposed corrections to file objections to those proposed corrections.
- (d) Settlement of Transcript. If either party files objections to any proposed correction under section (c), the Disciplinary Committee, upon review of the proposed corrections and objections, enters an order settling the transcript. Otherwise, the transcript is deemed settled and any proposed corrections deemed incorporated in the transcript.

10.3 Record on Review

- (a) Generally. The record on review consists of:

- (1) any hearing transcript or partial transcript; and
 - (2) documents and exhibits designated by the parties.
- (b) References to the Record. Briefs must specifically refer to the record if available, using the designations TR for transcript of hearing, EX for exhibits and documents.
- (c) No Additional Evidence. Evidence not presented to the Disciplinary Committee must not be presented to the Commission.
- (d) The AOC shall prepare and distribute the record on review.

10.4 Briefs

- (a) Briefs. When filing an appeal the respondent has the right to file a brief which shall include a statement in opposition to the Decision of the Disciplinary Committee, alleging errors of fact, law or any other pertinent matter.
- (b) Time for Filing Briefs. Briefs, if any, must be filed within 20 days of service on the respondent of a copy of the hearing transcript unless no transcript was requested. If no transcript was requested, briefs must be filed within 20 days of the filing of the Notice of Appeal.
- (c) Disciplinary counsel must file a brief within 15 days of service on disciplinary counsel of the respondent's brief, or, if no brief is filed by the respondent, within 15 days of the expiration of the period for the respondent to file a brief.
- (d) The respondent may file a reply to disciplinary counsel's brief within ten days of service of that brief on the respondent, unless the respondent failed to file an initial brief.

10.5 Request for Additional Proceedings

In any brief, either party may request that an additional hearing be held before the Disciplinary Committee to take additional evidence based on newly discovered evidence related to the Decision. A request for an additional hearing must be supported by affidavit describing in detail the additional evidence sought to be admitted and any reasons why it was not presented at the previous hearing. The Commission may grant or deny the request in its discretion.

10.6 Decision of Commission

- (a) Basis for Review. Commission review is based on the Disciplinary Committee's Decision, any Disciplinary Committee member's Dissent, the Notice of Appeal, the parties' briefs, and the record on review.

- (b) Standards of Review. The Commission reviews findings of fact for substantial evidence. The Commission reviews conclusions of law and recommendation de novo. Evidence not presented to the Disciplinary Committee cannot be considered by the Commission.
- (c) Oral Argument. The Commission may hear oral argument on cases involving suspension or revocation of certification or registered credential, if requested by either party or the Chair. A party's request must be filed no later than the deadline for that party to file his or her last brief. The Chair's notice of oral argument must be filed and served on the parties no later than 14 days before the oral argument. The Chair sets the time, place, and terms for oral argument.
- (d) Action by Commission. The Chair, by virtue of that office, is not disqualified from participating in the review before the Commission or from participating in the Commission's vote on a matter. On review, the Commission may adopt, modify, or reverse the findings, conclusions, or recommendation of the Disciplinary Committee. The Commission may also direct that the Disciplinary Committee hold an additional hearing on any issue, on its own motion, or on either party's request.
- (e) Commission Appellate Order. The Commission must issue a written Order within twenty days of the hearing. If the Commission amends, modifies, or reverses any finding, conclusion, or recommendation of the Disciplinary Committee, the Commission must state the reasons for its decision in a written Order. A Commission member agreeing with the majority's Order may file separate concurring reasons. A Commission member dissenting from the majority's Order may set forth in writing the reasons for that dissent. The Order should be prepared as expeditiously as possible and consists of the majority's decision together with any written dissent. A copy of the complete Order is served by the AOC on the parties.
- (f) Commission Appellate Order Final. The Commission's Order is final.

10.7 Chair May Modify Requirements

Upon written motion and for good cause shown, the Chair may modify the time periods in title 10, and make other orders as appear appropriate to assure fair and orderly Commission review.

Title 11 - Procedures for Interim Suspension of Certification or Registered Credential

11.1 Interim Suspension for Conviction of a Crime

- (a) Definitions.
 - (1) "Conviction" for the purposes of this rule occurs upon entry of a plea of guilty, unless the defendant affirmatively shows that the plea was not accepted or was withdrawn, or

upon entry of a finding or verdict of guilty, unless the defendant affirmatively shows that judgment was arrested or a new trial granted. Conviction does not include findings or verdicts that were disclosed at the time of application.

(2) "Serious crime" includes any:

(A) felony;

(B) crime a necessary element of which, as determined by its statutory or common law definition, includes any of the following:

- i. commission of an act of violence;
- ii. interference with the administration of justice;
- iii. perjury;
- iv. fraudulent misrepresentation;
- v. bribery;
- vi. extortion;
- vii. misappropriation; or
- viii. theft; or

(C) attempt, or a conspiracy, or solicitation of another, to commit a "serious crime".

(b) Procedure upon Conviction.

(1) If an interpreter is convicted of a felony or other serious crime, disciplinary counsel must file a Complaint regarding the conviction. Disciplinary counsel must also petition the Disciplinary Committee Chair for an order suspending the respondent interpreter during the pendency of disciplinary proceedings. The petition for suspension may be filed before the Complaint.

(2) If an interpreter is convicted of a crime that is neither a felony nor a serious crime, the Disciplinary Committee considers a report of the conviction in the same manner as any other report of possible misconduct by an interpreter.

(c) Petition. A petition to the Disciplinary Committee for suspension under this rule must include a copy of any available document establishing the fact of conviction. Disciplinary counsel may also include additional facts, statements, arguments, affidavits, and documents in the petition. AOC must serve a copy of the petition on the respondent, and proof of service filed with the AOC.

(d) Immediate Interim Suspension. Upon the filing of a petition for suspension under this rule, the Disciplinary Committee determines whether the crime constitutes a serious crime as defined in section (a). If the crime is a felony or other serious crime, the Court must enter an order immediately suspending the respondent's certification or registered credential.

(1) If suspended, the respondent must comply with 9.4(e).

(2) Suspension under this rule occurs:

(A) whether the conviction was under a law of this state, any other state, or the United States;

(B) whether the conviction was after a plea of guilty, nolo contendere, not guilty, or

otherwise; and
(C) regardless of the pendency of an appeal of the underlying conviction.

- (e) Duration of Interim Suspension. An interim suspension under this rule must terminate when the disciplinary proceedings in response to the Complaint are fully completed, or after appeal of the Disciplinary Committee's decision.
- (f) Termination of Suspension.
 - (1) Petition and Response. A respondent may at any time petition the Disciplinary Committee to recommend termination of an interim suspension. The disciplinary counsel may file a response to the petition.
 - (2) Disciplinary Committee Recommendation. If either party requests, the Disciplinary Committee must hear oral arguments on the petition at a time and place and under terms as the Disciplinary Committee Chair directs. The Disciplinary Committee may recommend termination of a suspension only if the Committee makes an affirmative finding of good cause to do so. There is no right of appeal from a Disciplinary Committee decision regarding interim suspension.

11.2 Interim Suspension in Other Circumstances

- (a) Types of Interim Suspension.
 - (1) Disciplinary Committee Finding of Risk to Public. Disciplinary counsel may petition the Disciplinary Committee for an order suspending the respondent interpreter during the pendency of any proceeding under these rules if it appears that a respondent's continued practice as an interpreter poses a substantial threat of serious harm to the public.
 - (2) Disciplinary Committee Recommendation for Revocation of Certification or Registered Status. When the recommended sanction identified in the Complaint is revocation of certification or registered status, the disciplinary counsel may file a petition for the respondent's suspension during the remainder of the proceedings. The respondent must be suspended absent an affirmative showing that the respondent's continued practice as an interpreter will not be detrimental to the administration of justice or be contrary to the public interest.
 - (3) Failure to Cooperate with Investigation. When any interpreter fails without good cause to comply with a request under rule 5.2(e) for information or documents, disciplinary counsel may petition for an order suspending the interpreter pending compliance with the request. If the interpreter complies with the request, the Disciplinary Committee may lift the suspension on terms the Disciplinary Committee deems appropriate.
- (b) Procedure.
 - (1) Petition. A Petition to the Disciplinary Committee under this rule must set forth the acts

of the interpreter constituting grounds for interim suspension. The Petition may be supported by documents or affidavits. The AOC must serve the Petition to the respondent interpreter and Disciplinary Committee.

- (2) **Show Cause Order.** Upon filing of the Petition, the Disciplinary Committee Chair orders the respondent interpreter to appear in person or telephonically before the Disciplinary Committee to show cause why the Petition for interim suspension should not be granted. This Show Cause Hearing cannot occur less than ten days after service on the respondent of the Show Cause Order.
- (3) **Answer to Petition.** The interpreter may answer the petition. An Answer may be supported by documents or affidavits. Failure to answer does not result in default or waive the right to appear at the Show Cause Hearing.
- (4) **Filing of Answer.** Any Answer must be filed with the AOC within five days of receiving the Show Cause Order.
- (5) **Settlement Agreement.** At any time a respondent interpreter and Disciplinary Committee may stipulate that the respondent be suspended during the pendency of any investigation or proceeding because of conviction of a serious crime, or a substantial threat of serious harm to the public. Settlement Agreements under this rule are public upon filing with the AOC, but the Disciplinary Committee may order that supporting materials are confidential. The respondent interpreter may petition the Disciplinary Committee to terminate the interim suspension, and on a showing that the cause for the interim suspension no longer exists, the Disciplinary Committee may terminate the interim suspension.
- (6) **Show Cause Hearing.** The respondent may appear before the Disciplinary Committee at the hearing to show cause why the Petition for interim suspension should not be granted.
- (7) **Application of Other Rules.** If the Disciplinary Committee enters an interim order suspending the interpreter, the rules relating to suspended of interpreters, including 9.4 apply.

11.3 Notification of Interim Suspension

Upon entry of an order for interim suspension, the AOC shall notify all presiding judges and court administrators of the interim suspension. The AOC shall also remove the respondent's name from all public website lists of credentialed interpreters.

Title 12 - Discipline from Other Jurisdictions; Duty to Self Report

- (a) **Duty to Self-Report Discipline.** Within 30 days of being disciplined in another jurisdiction, an interpreter certified or registered by the AOC must inform the AOC of the discipline.
- (b) **Obtaining Order.** Upon notification from any source that an interpreter certified or registered in this state was disciplined in another jurisdiction, the AOC must obtain a copy of the Order and file it with the Disciplinary Committee.
- (c) **Disciplinary Committee Action.** Upon receipt of information demonstrating that an interpreter certified or registered in this state has been disciplined in another jurisdiction, the Disciplinary Committee orders the respondent interpreter to show cause within 30 days of service why it should not impose the identical discipline. The AOC must serve this Order by certified mail, and a copy of the Order from the other jurisdiction, on the respondent.
- (d) **Deferral.** If the other jurisdiction has stayed the discipline, any reciprocal discipline in this state is deferred until the stay expires.
- (e) **Discipline to Be Imposed.**
 - (1) Thirty days after service of the order under section (c), the Disciplinary Committee imposes the identical discipline unless the interpreter demonstrates, or the Disciplinary Committee finds, that it clearly appears on the face of the record on which the discipline is based, that:
 - (A) the procedure so lacked notice or opportunity to be heard that it denied due process;
 - (B) the proof of misconduct was so weak that the Disciplinary Committee is clearly convinced that it cannot, consistent with its duty, accept the finding of misconduct;
 - (C) the imposition of the same discipline would result in grave injustice;
 - (D) the established misconduct warrants substantially different discipline in this state;or
 - (E) appropriate discipline has already been imposed in this jurisdiction for the misconduct.
 - (2) If the Disciplinary Committee determines that any of the factors in subsection (1) exist, it enters an appropriate Order. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that imposing the same discipline is not appropriate.
- (f) **Conclusive Effect.** Except as this rule otherwise provides, a final adjudication in another jurisdiction that an interpreter has been guilty of misconduct conclusively establishes the misconduct for purposes of a disciplinary proceeding in this state.