



ARKANSAS JUDICIARY

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Complaint and Discipline Policy

Complaint and Discipline Policy for Interpreters in Arkansas Court Proceedings or Related Matters

1) Complaint Process

Any person may initiate a complaint by filing it in accordance with the procedures set forth in subsection 2) *Filing a Complaint*. Complainants may include, but are not limited to, defendants, litigants, court personnel, judges and judicial officers, other interpreters, and courtroom observers. 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. 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 the *per curiam* order of the Arkansas Supreme Court dated September 30, 1999.

All complaints and investigations shall be confidential, except that when a final determination is made to impose any of the sanctions listed in subsection 3) *Review of Complaints*, 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. If the subject of the complaint is a staff interpreter employed by the AOC, then the complaint shall be governed by the policies of the AOC, including the employee handbook and applicable provisions in Section VI.

Complaints against foreign (spoken) language AOC court certified interpreters, court qualified sign language interpreters, interpreters from other jurisdictions recognized through reciprocity, candidates for court certification, registered interpreters and other persons acting as interpreters in Arkansas Court Proceedings or related matters may be filed for reasons including but not limited to:

- (a) conviction of a felony or misdemeanor (other than a traffic violation) involving moral turpitude, dishonesty or false statements (conviction is defined as a plea of guilty, or nolo contendere, or a guilty verdict);
- (b) fraud, dishonesty, or corruption related to the functions and duties of a court interpreter;
- (c) knowing misrepresentation of court certification or Registry 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) failure to appear as scheduled without good cause or habitual neglect of duty;
- (g) the misrepresentation or omission of material facts in the application process or in obtaining

certification;

(h) being unable to interpret adequately, including where the interpreter self-reports such inability;

(i) knowingly and willfully making false interpretation while serving in an official capacity;

(j) failing to adhere to the requirements prescribed by the AOC, including the Arkansas Code of Professional Responsibility for Foreign Language Interpreters;

(k) any intentional violation of, noncompliance with or gross negligence in complying with any rule or directive of the Supreme Court of Arkansas, or any other court within this State;

(l) failing to follow other standards prescribed by law; or,

(m) failing to comply with any conditions invoked by a sanction.

2) Filing a Complaint

A complaint must be submitted in writing or an acceptable alternative format, signed by the complainant, and mailed or delivered to the AOC. The complaint shall state the date, time, place and nature of the alleged improper conduct. If possible, the complaint shall include the name, title and telephone number 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.

3) Review of Complaints

(a) The Office of Court Interpreter Services (OCIS) Director shall review the complaint and determine within 30 days whether the allegations, if true, would constitute grounds for discipline. If the OCIS Director determines that the complaint alleges conduct that would be grounds for discipline, an investigation shall proceed according to subsection 3 (e) of these procedures.

(b) If the OCIS Director determines that the complaint does not allege conduct that would be grounds for discipline, the OCIS Director shall dismiss the complaint and notify the interpreter and complainant via first class mail or an acceptable alternative format. The notification shall include an explanation of the reason(s) for the OCIS Director's determination that the complaint does not allege conduct that would be grounds for discipline.

(c) If the complainant disagrees with the OCIS Director's determination in subsection 3(b) above, the complainant may file a petition for review with the AOC within twenty (20) days of the receipt by the complainant of the OCIS Director'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.

(d) The AOC Director shall make a decision on the complainant's petition within thirty (30) days. If the AOC Director determines that the complaint does allege conduct that would be grounds for discipline, the OCIS Director shall proceed to investigate the complaint as provided in subsection 3(e) below. If the AOC Director determines that the complaint does not allege conduct that would be grounds for discipline, the complaint shall be dismissed and the interpreter and complainant shall be notified via first class mail or an acceptable alternative. Such a determination by the AOC Director shall be final. The AOC Director may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

(e) If the complaint does allege conduct that would be grounds for discipline, the OCIS Director shall

investigate as necessary or refer the investigation to a qualified agency or individual. As part of this investigation, the OCIS Director will notify the interpreter via first class mail or an acceptable alternative format of the complainant's allegations and offer the interpreter the opportunity to respond. This response shall be included in the investigative report. 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.

At the conclusion of the investigation, if the OCIS Director determines that conduct occurred that would be grounds for discipline, the OCIS Director shall submit a report of his/her findings to the AOC Director for review.

If, at the conclusion of the investigation, the OCIS Director determines that no conduct occurred that would be grounds for discipline, the OCIS Director shall dismiss the complaint and notify the interpreter and the complainant by first class mail or an acceptable alternative format. The notification shall include an explanation of the reason(s) for the OCIS Director's determination that no grounds for discipline exist. If the complainant disagrees with the determination, he or she may file a petition for review with the AOC Director under the same procedure as outlined in subsections 3(b) and 3(c) of these procedures.

(f) If upon reviewing the results of the investigation, the AOC Director determines that disciplinary action is not warranted, the AOC Director shall dismiss the complaint and notify the interpreter and the complainant by first class mail or an acceptable alternative format. The notification shall include an explanation of the reason(s) for the determination that the alleged conduct is not grounds for discipline. Such a determination shall be final.

If the AOC Director determines that disciplinary action may be warranted, the AOC Director shall send to the interpreter, by certified mail, a copy of the complaint, the OCIS Director's report, a citation of the ethical rules which may have been violated, the sanctions deemed appropriate, and a request for a written response to the allegations and to any specific questions posed. 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.

The AOC Director shall make a final decision on the factual allegations and appropriate sanctions, if any, based solely on the written submissions by the OCIS Director and the interpreter's written response. This decision must be made within ninety (90) days of receiving the written submissions by the OCIS Director and the interpreter. This decision will be final. However, if the AOC Director determines that a sanction of suspension or revocation may be in order, the interpreter shall be notified and afforded the opportunity for a hearing as provided in subsection 4) *Hearing and Sanctions* prior to a final decision.

The AOC Director may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

4) Hearing and Sanctions

(a) Upon being advised of the right to a hearing, and at the interpreter's request, a hearing shall be conducted by the AOC Director or his or her designee (Hearing Officer), and the interpreter will be notified of the time and place of the hearing.

- Pre-hearing discovery shall not be permitted unless expressly authorized in response to a written request.
- The interpreter may be represented by counsel.
- All hearings will occur at the Justice Building.

- Strict rules of evidence shall not apply. Both the OCIS Director and the interpreter shall be afforded the opportunity to introduce documents and other relevant evidence, and to elicit sworn testimony. The Hearing Officer may, at his or her discretion, consider any evidence presented, including affidavits, giving such evidence the weight he or she deems appropriate.

The OCIS Director may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

(b) If the Hearing Officer finds that there is clear and convincing evidence that the interpreter has violated the Code of Professional Responsibility or that there are any other grounds for discipline stated in 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 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 shall be considered. Sanctions that may be imposed include but are not limited to:

- (1) Issuing a reprimand;
- (2) Issuing a corrective order with which the interpreter must comply;
- (3) Requiring that certain education courses be taken;
- (4) Requiring that the interpreter work with a mentor, or that the interpreter's work be supervised;
- (5) Limiting the type of court hearings for which the interpreter may interpret;
- (6) Suspension of interpreter Registry status;
- (7) Revocation of interpreter's court certification. Name will be removed from the Certification Roster and/or Registry of Arkansas Certified Court Interpreters.

(c) If the sanction of revocation of the interpreter's court certification is imposed, the Hearing Officer shall advise the interpreter and complainant via first class mail or an acceptable alternative of his or her action on the complaint and shall make written findings of fact based on the evidence presented. The notification shall include an explanation of the reason(s) for the determination that the alleged conduct is grounds for decertifying the interpreter. The decision of the Hearing Officer is final.

(d) At any time, an interpreter may waive his or her right to a hearing and consent to have his or her name removed from the Certification Roster or to revocation of his or her certification.

(e) An interpreter whose Registry status has been suspended may apply in writing to the OCIS Director for reinstatement within the time frame established in the suspension decision or order. The OCIS Director or his or her designated officer shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.

"Revocation" or "decertification" means unconditionally and permanently removing interpreter's court certification, prohibiting him or her from serving as an Arkansas foreign (spoken) language court certified interpreter and any conduct authorized by the certified status. Interpreter will be prohibited from using the title "certified" in conjunction with his or her name and his or her name will be removed from the Certification Roster and Registry.

"Suspension" means to prohibit, whether absolutely or subject to conditions which are reasonably related to the grounds for suspension, for a defined period of time, the conduct authorized by the

certificate and/or Registry status.

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