



Independent Contractor Court Interpreter Discipline Policy

I. PURPOSE

- A. This policy provides the Colorado Judicial Department (“Department”) with a process for assuring quality control of spoken language interpreting services offered in the Colorado State Courts and Probation Departments.
- B. This policy will assist the Department in controlling the rosters of *Certified, Credentialed, Qualified* and *Registered* interpreters that are maintained by the Office of Language Access (“OLA”), and will allow for revocation of roster status if a complaint is upheld. Rosters are maintained in accordance with the OLA’s *Vendor Approval Process and Roster Maintenance Policy*.

II. SCOPE

- A. This policy applies to any interpreter who provides spoken language interpretation services for the Department as an independent contractor or subcontractor working through an approved agency under a contract with the Branch.
- B. This policy does not apply to staff interpreters employed by the Department who are subject to the terms and conditions of the Colorado Judicial System Personnel Rules.

III. GROUNDS FOR DISCIPLINE

- A. The following actions constitute grounds for the filing of a complaint against an interpreter working as an independent contractor or subcontractor for the Department:
 - i) violation of any federal, state or local criminal code when such offense adversely affects the interpreter’s ability or fitness to perform court interpreter duties or may have an adverse effect on the Department if the interpreter continues to work in the Courts and/or Probation Departments;
 - ii) fraud, dishonesty, or corruption related to the functions and duties of a court interpreter;
 - iii) knowing and willful disclosure of confidential or privileged information obtained while serving as an interpreter in an official capacity;
 - iv) incompetence, unprofessional or unethical conduct;
 - v) repeated failure to appear as scheduled or lateness without good cause;
 - vi) noncompliance with any existing continuing education requirements;



- vii) violation of the Court Interpreter’s Code of Professional Responsibility or any other Department policy or procedure, including engaging in behavior that constitutes discrimination or harassment under the Department’s Anti-Harassment Policy (attached as Appendix A).

IV. COMPLAINT SUBMISSION & REVIEW

A. Submission of Filing

Any individual with independent knowledge of alleged interpreter misconduct may file a complaint against the interpreter.

- i) A complaint must be submitted in writing within 180 days of the date of the alleged violation to one of the following points of contact:
 - a. Online:
<https://www.courts.state.co.us/Administration/language/complaint/index.cfm>
 - b. Email: interpreters@judicial.state.co.us.
 - c. Mail or in person:
Office of Language Access
State Court Administrator’s Office
1300 Broadway, Suite #1200 |
Denver, CO 80203
- ii) The complaint may be submitted in one of the following formats:
 - a. Online form available at
<https://www.courts.state.co.us/Administration/language/complaint/index.cfm>.
 - b. OLA’s “Language Access Complaint Form” available from the district’s interpreters’ office.
 - c. Document stating, to the extent known:
 - i. date;
 - ii. time;
 - iii. location (including the judicial district);
 - iv. case name and number of any proceeding, if applicable;
 - v. nature of the alleged improper conduct;
 - vi. name(s), title(s) and telephone number(s) of potential witnesses; and
 - vii. reason why the complainant believes the alleged improper activity should be sanctioned.
- iii) The complainant may submit the complaint in his or her native language.



B. Review of Filing

- i) The Language Access Administrator (“LAA”) shall review the complaint within 30 days of receipt and shall determine whether the allegations, if true, would constitute grounds for discipline. If the LAA determines that the complaint alleges conduct that would be grounds for discipline, an investigation shall proceed according to *Section V.A.*
- ii) If the LAA determines that the complaint does not allege conduct that would be grounds for discipline, the LAA shall dismiss the complaint and notify the complainant in writing. The notification shall include an explanation of the reason(s) for the LAA’s determination that the complaint does not allege conduct that would be grounds for discipline.
- iii) If the complainant disagrees with the LAA’s determination, the complainant may file a petition for review with the Chair of the Advisory Committee on Language Access (“ACLA”) within 15 days of receipt of the LAA’s determination by the complainant. The petition shall briefly state the facts that form the basis for the complaint and the complainant’s reasons for believing that review is warranted. A copy of the petition shall be provided to the LAA.
- iv) The LAA shall submit to the ACLA Chair a response within 30 days of receipt of the complainant’s petition for review.
- v) The ACLA Chair shall appoint an Ethics Review Board (“ERB”) to review the petition and render a decision within 45 days of receipt of the LAA’s response. The ERB shall consist of three ACLA members who are free of conflict with respect to the allegations in the complaint who will act on behalf of the ACLA in carrying out designated duties as set forth in this Policy.
- vi) If the ERB determines that the complaint does allege conduct that, if true, would be grounds for discipline, the matter shall be referred to the Department’s Division of Human Resources (“HR”) to investigate the complaint as set forth in *Section V.A.*
- vii) If the ERB determines that the complaint does not allege conduct that would be grounds for discipline, the ACLA Chair shall dismiss the complaint and notify the complainant in writing. The notification shall include an explanation of the reason(s) for the ERB’s determination that the complaint does not allege conduct that constitutes grounds for discipline. Such a determination by the ERB shall be final.

V. INVESTIGATION & FINDINGS

A. Investigation

- i) If the LAA or ERB determine that the alleged conduct, if true, would be grounds for discipline, the complaint shall be referred by the LAA to HR for investigation. Except for good cause shown, the investigation shall be completed within 45 days of receipt of the request to investigate. As part of this process, the investigator shall contact the interpreter, inform him/her of the complainant’s allegations, and give the interpreter the opportunity to respond. This response shall be included in the investigative report.



- ii) If appropriate, the LAA, with approval from the Director of the Department's Court Services Division ("CS Director"), may suspend the interpreter from working for the Department during the investigation or until a final determination is made.
- iii) At the conclusion of the investigation, the investigator shall submit Findings and Recommendations to the LAA for review which includes specific factual findings as to whether conduct occurred that would be grounds for discipline.
- iv) The complainant, interpreter, and any witnesses shall be advised that the investigation proceedings are confidential, and informed of the protections against retaliation.

B. Determination

- i) If upon review of the results of the investigation the LAA, in consultation with the CS Director, determines that no grounds for discipline exist, the LAA shall dismiss the complaint and notify the interpreter and the complainant in writing by certified mail. The notification shall include an explanation of the reason(s) for the LAA's determination that no grounds for discipline exist. If the complainant disagrees with the LAA's determination, the process defined in *Sections IV.B.iii-vii* will apply.
- ii) If the LAA decides that additional information is required from the interpreter prior to making a determination, a written request shall be sent to the interpreter by certified mail with specific questions posed by the LAA. All questions must be answered and mailed back to the LAA within 15 days. If the interpreter fails to respond in writing within the allotted time, the LAA may, at his/her discretion, proceed with the discipline as outlined in *Section V.B.iii*.
- iii) If upon review the LAA, in consultation with the CS Director, determines that grounds for discipline exist, the LAA shall send to the interpreter, by certified mail, a summary of the allegations contained in the complaint, a brief summary of the relevant investigative findings, a citation to any rules or procedures which may have been violated and the sanctions deemed appropriate by the LAA. The LAA's determination shall be made within 60 days of receipt of the investigation report.
- iv) If the LAA finds that there is a preponderance of evidence that there are grounds for discipline and only imposes one or more of the private sanctions listed in *Section VI.C.*, such decision shall be final. The LAA shall send written notice of the decision to the complainant, and the interpreter shall not be entitled to a hearing or further appeal.
- v) If the LAA recommends public sanctions set forth in *Section VI.D.*, the interpreter may request a hearing as provided in *Section V.C*.

C. Hearing

- i) If the interpreter contests the LAA's determination and recommended sanction(s), and the recommended sanctions are other than those listed in *Section VI.C*, the interpreter may file an appeal with the Chair of the ACLA and request a hearing before a newly appointed ERB appointed by the ACLA Chair. The appeal and any request for hearing



must be made within 15 days of receipt of receipt of the LAA's determination. If granted, the hearing must take place within 45 days of receipt of the written request.

- ii) The ERB at its discretion may set the matter for hearing or decide the matter based on the information as submitted without a hearing.
- iii) Hearing Procedures
 - a. Pre-hearing discovery shall not be permitted.
 - b. The interpreter may be represented by legal counsel at his/her own expense.
 - c. All hearings shall be recorded electronically, and shall be a closed proceeding with the exception of the complainant who may attend.
 - d. Strict rules of evidence shall not apply. The ERB, in its discretion, may consider any evidence presented, including affidavits, giving such evidence the weight deemed appropriate.
 - e. At the hearing, the LAA, or designee, the complainant, and the interpreter shall be afforded the opportunity to introduce documents and other relevant evidence and to present witness testimony.
 - f. The ERB may, at its discretion, call witnesses, consider or clarify any relevant evidence presented, giving such evidence the weight deemed appropriate.

D. Final Determination

- i) If no hearing is held, the ACLA Chair shall issue a final determination within 45 days of the LAA's determination.
- ii) If a hearing is held, within 30 days of the conclusion of the hearing, the ERB shall issue its written findings and recommendations to the ACLA for final determination. The ACLA shall be bound by the factual findings of the ERB in rendering its final determination of what actions are to be taken on the complaint.
- iii) The ACLA shall take action based on majority vote by a quorum of members, not to include ERB members.
- iv) The ACLA shall advise the interpreter and the complainant of its final determination by certified mail with a copy to the LAA. If the ACLA's decision includes sanctions against the interpreter, consistent with *Section VI*, the ACLA shall specifically enumerate the sanctions, the reasons for such sanctions, and the length of the sanctions. If the sanctions include suspension or revocation of the interpreter's court certification or roster status or placing the interpreter at a lower qualification or skill level on the roster, the ACLA shall specify the conditions and timeframe within which the interpreter may apply for reinstatement of his/her prior certification or roster status.
- v) The ACLA's determination shall be final and not subject to further review or appeal.



VI. SANCTIONS

- A. If the ACLA finds that there is a preponderance of evidence that the interpreter has violated the Code of Professional Responsibility or that there are any other grounds for discipline under *Section III* of this policy, it may impose such discipline or sanctions as deemed appropriate.
- B. In determining what sanction is appropriate, ACLA shall consider the nature and seriousness of the violation, any pattern of improper activity, the effect of the improper activity on the court system and/or the complainant, the amount of experience the interpreter has as a court interpreter, and any other mitigating or aggravating information presented.
- C. Private sanctions that may be imposed include, but are not limited to:
 - i) private reprimand;
 - ii) corrective action with which the interpreter must comply in order to remain on the roster;
 - iii) requirement of completion of education courses;
 - iv) requirement that the interpreter work with a mentor, or that the interpreter's work be supervised;
- D. Public sanctions that may be imposed include, but are not limited to:
 - i) public reprimand;
 - ii) restitution;
 - iii) requirement that one or more parts of the interpreter court certification or ethics examination be retaken;
 - iv) placement of the interpreter at a lower qualification or skill level on the roster;
 - v) limitation of the type of court hearings for which the interpreter may interpret;
 - vi) suspension of interpreter court certification or roster status and termination of an existing contract(s) with the Department;
 - vii) revocation of interpreter court certification or roster status and cancellation of any existing contract(s) with the Department.

VII. REINSTATEMENT

An interpreter whose certification or roster status has been suspended or revoked may apply in writing to the LAA for reinstatement, within the timeframe established in the suspension/revocation decision or order issued by ACLA. The ACLA shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.



VIII. CONFIDENTIALITY

- A. All complaints and investigations shall be confidential, except that when sanctions listed in *Section VI.D.* are imposed, the final determination (including the grounds for the sanction(s) and the facts cited in support of the determination) shall be open record available to the public upon request.
- B. The ACLA shall develop a protocol for disseminating public information to judicial officers, district administrators, managing interpreters and interpreter agencies concerning disciplinary actions taken by the ACLA against interpreters.



Appendix A

Chief Justice Directive: 08-06
Attachment A

**ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICY -
COLORADO JUDICIAL DEPARTMENT**

SUPREME COURT OF THE STATE OF COLORADO

Adopted June 1, 1995
Amended March 21, 1996
Amended May, 2001
Amended July, 2008
Amended May, 2011
Amended July, 2013

The Colorado Judicial Branch (“Judicial Department”) is proud of its tradition of maintaining a work environment where all persons are treated with dignity and respect. Each individual should be provided with the opportunity to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices, including harassment based on a person’s race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability. Harassment, whether verbal, physical, or environmental, is unacceptable and will not be tolerated in the workplace itself or in other work-related settings such as business trips, conferences, or work-related social events.

A. APPLICATION

The Judicial Department will not tolerate, condone or allow harassment whether engaged in by Colorado Judicial Branch classified and contract employees, volunteers, interns, supervisors, judicial officers, clients, court customers or others conducting business at or with the Judicial Department.

B. DEFINITIONS

- (1.) Harassment.** Wherever used in this policy, the term “harassment” represents any unwelcome or offensive conduct, verbal or physical, based on a person’s race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability if such conduct adversely affects that person’s work performance or employment status, or otherwise creates an intimidating, hostile or offensive work environment. Examples of prohibited conduct include derogatory comments, remarks, gestures, or jokes, including the same contained in electronic communications and media, relating to a person’s race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability, racial or ethnic slurs, and negative epithets.
- (2.) Sexual Harassment.** Sexual harassment specifically is defined as any type of unwelcome or offensive conduct based on an individual’s sex, whether or not the conduct is sexual in nature, where: 1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion or other aspects of employment; or 2) this conduct unreasonably interferes with a person’s employment or creates an intimidating, hostile or offensive work environment.

Examples of prohibited sexual harassment include: derogatory comments, remarks, gestures or jokes about a particular sex; demands for sexual favors in exchange for favorable treatment or continued employment; unwanted sexual advances or propositions; unwelcome touching; graphic, verbal commentary about an individual’s body, sexual prowess or sexual deficiencies; repeated sexual comments, sexual gestures, sexual jokes, leering, whistling, or other verbal abuse of a sexual nature; the display in the workplace of sexually



suggestive objects or pictures; and using electronic media and communications to send or receive sexually suggestive messages and/or images.

- (3.) **Discrimination.** Whenever used in this policy, the term “discrimination” refers to any treatment or distinction in favor of or against a person based on the person’s race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability to which that person belongs rather than on individual merit.

C. COMPLAINT PROCEDURE

An employee or judicial officer who believes he or she has been subjected to harassment is strongly encouraged to disclose the offending behavior so appropriate action may be taken.

- (1.) **Reporting.** The employee or judicial officer should report the matter promptly and may choose any of the following persons for filing the complaint: the person’s own supervisor or any other supervisor, the District Administrator, the Chief Probation Officer, the Chief Justice or Chief Judge of the court, or the Human Resources Division of the State Court Administrator’s Office.
- (2.) **Form of the Report.** The initial report may be either a written or verbal complaint. Any person who receives a verbal complaint shall document the information received in writing and have it signed by the complaining party. Written complaints should include the date, time, location, and a description of the event or behavior complained of, the names of the parties involved and of any witnesses, and should be signed by the complaining party (“complainant”). The recipient of the complaint must provide copies of the complaint (marked personal and confidential) to 1) the Chief Judge, District Administrator, or Chief Probation Officer, and/or 2) to the Human Resources Division of the State Court Administrator’s office. If the complaint alleges a violation by the Chief Judge, District Administrator, or the Chief Probation Officer, a copy also shall be provided to the Human Resources Division of the State Court Administrator’s Office.
- (3.) **Confidentiality.** All complaints of harassment shall be kept in confidence, except as necessary to investigate the complaint and respond to any legal and/or administrative proceedings arising out of or relating to the report. All complaints of harassment and discrimination as well as the results and findings resulting from any investigation thereof are confidential and not subject to disclosure through open records requests.
- (4.) **Investigation.** Reports of harassment and discrimination from employees warranting an investigation shall be referred to the Human Resources Division of the State Court Administrator’s Office for investigation. In some instances, an initial inquiry will be completed as a preliminary review by the Human Resources Division to determine whether there is cause to conduct a full investigation. A full investigation, at a minimum, will include conferences with the complainant, the alleged perpetrator, and any witness(s) to the incident. Any party involved in a harassment complaint may submit any documentation they believe to be relevant to the matter at issue to the investigating authority.
- (5.) **Recommendations and Penalties.** The Human Resources Division will make findings and will recommend appropriate action to resolve the matter to the administrative authority. Such action may include, but is not limited to, mediation, education, corrective or disciplinary action (including dismissal), or a combination of such actions. Any investigation resulting in a finding that a person has maliciously or recklessly made false accusations against another may subject the accuser to appropriate corrective or disciplinary action, which may include dismissal. A full report of any disciplinary action taken will be sent to the Human Resources Division of the State Court Administrator’s Office.

The Division of Human Resources’ findings of investigations of complaints against Judges shall be referred the Judicial Discipline Office pursuant to the agreement between the State Court Administrator’s Office and the Judicial Discipline Commission.

- (6.) **Notice to Complainant.** The complainant will be advised when the investigation has been completed, within 30 days of the filing of the complaint. Should the investigation take longer than 45 days, the complainant will



be so notified. If no information has been provided to the complainant within 45 days, the complainant should immediately contact the Director of the Human Resources Division of the State Court Administrator's Office, which will determine the status of the investigation or begin its own investigation, and provide a status report to the complainant. Both the complainant and the subject of the complaint will receive notification when the investigation has been completed. Investigation findings are not subject to appeal under the Colorado Judicial System Personnel Rules.

D. RETALIATION

Retaliation against any individual who has made a charge, filed a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this policy will not be tolerated. Retaliation is a serious violation of this policy and should be reported immediately. Reports of retaliation are taken seriously and may be the subject of a separate investigation. Any act of retaliation may result in appropriate corrective or disciplinary action, which may include dismissal.

Originally adopted by the Court, En Banc, on June 1, 1995, amended on March 21, 1996, amended on May, 2001, amended July, 2008, amended May, 2011, amended July 2013.