

**Proposed Amendments to the Idaho Court Administrative Rules**  
**February 2024**

The Idaho Supreme Court's Language Access Committee is seeking input on proposed new rule Idaho Court Administrative Rule 52.1, Court Interpreters- Discipline. Please send your comments to **Deena Layne** at [dlayne@idcourts.net](mailto:dlayne@idcourts.net) by **Monday, March 11, 2024**. Thank you.

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**Idaho Court Administrative Rule 52.1. Court Interpreters- Discipline**

**(a) Purpose**

- (1) This rule establishes a quality control process for spoken language interpreting services offered in the courts.
- (2) This rule will assist the Administrative Office of the Courts in maintaining the rosters of certified - master level, certified, registered, or conditionally approved interpreters and will allow for revocation or suspension of roster status if a complaint is upheld.

**(b) Scope**

- (1) This rule applies to all court interpreters who provide spoken language interpretation for the courts.
- (2) This rule does not apply to court interpreters for the deaf, deaf-blind, and hard of hearing, except that all interpreters for the deaf, deaf-blind, and hard of hearing will submit the oath in accordance with I.C.A.R. 52 and may be subject to removal in accordance with that rule. The courts will utilize the Registry of Interpreters for the Deaf (RID) or other court recognized certifying bodies to access court interpreters. For these interpreters, individuals who wish to file a complaint may file a complaint with RID, or the other certifying body, and provide a copy to the Administrative Director of the Courts or designee.
- (3) This rule does not apply to bilingual staff employed by the state or any Idaho county who are subject to the terms and conditions of their employment.

(c) **Grounds for Discipline**

Any of the following actions may be grounds for discipline of a court interpreter, including, but not limited to, decertification and removal from a roster:

- (1) 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 administration of justice or public if the interpreter continues to provide services in the courts;
- (2) fraud, dishonesty, or corruption related to the functions and duties of a court interpreter;
- (3) knowing and willful disclosure of confidential or privileged information obtained while serving as an interpreter in an official capacity;
- (4) incompetence, or unprofessional, or unethical behavior;
- (5) violation of the Idaho Code of Professional Responsibility for court interpreters or any other court policy, procedure, or order, including engaging in conduct that constitutes discrimination or harassment;
- (6) repeated failure to appear as scheduled without good cause;
- (7) noncompliance with any continuing education requirements, or nonpayment of any required renewal fees;
- (8) misrepresentation of credentials or other material misstatement of fact relative to appointment as an interpreter, or to an application for certification;
- (9) failing to follow other orders or standards prescribed by law; or
- (10) failing to disclose a felony conviction or serious and violent misdemeanor charge [consistent with the Idaho Court Interpreters Policy Manual].

(d) **Complaint Submission and Review**

(1) **Submission of Complaint**

Anyone with knowledge of alleged interpreter misconduct may file a complaint against a court interpreter.

(A) A complaint must be submitted in writing within 180 days of the date of the alleged misconduct to one of the following points of contact:

- (i) Email: [languageaccess@idcourts.net](mailto:languageaccess@idcourts.net)

(ii) Mail or in person:  
Statewide Language Access Office  
Idaho Supreme Court  
P.O. Box 83720  
451 W. State Street  
Boise, ID 83720-0101

(B) The complaint may be submitted in one of the following formats:

(i) “Language Access Complaint Form” available at:  
[COURT INTERPRETER COMPLAINT FORM \(idaho.gov\)](https://www.idaho.gov/court-interpreter-complaint-form)

(ii) Document stating, to the extent known:

- a. date, time, and location (including judicial district and county) of the alleged misconduct;
- b. case name and docket number of the proceeding in which the alleged misconduct occurred, if applicable;
- c. description of the alleged misconduct and why the complainant believes it was improper; and,
- d. name(s), title(s), and telephone number(s) of potential witnesses.

(C) The complainant may submit the complaint in his or her preferred language.

(2) Review of Complaint

The Language Access Coordinator (LA Coordinator) or their designee will review the complaint within a reasonable amount of time, not to exceed 14 days from receipt, to determine whether the allegations, if true, constitute grounds for discipline.

(A) If the LA Coordinator determines that the complaint does not allege conduct that would be grounds for discipline, the LA Coordinator will forward the complaint and assessment to the Director of the Court Management Division (CMD Director).

(i) If the CMD Director agrees that the complaint does not allege conduct that would be grounds for discipline, the LA Coordinator will dismiss the complaint and notify the complainant in writing.

(ii) If the CMD Director determines that the complaint alleges misconduct that may be grounds for discipline and decides further action or review is needed, the complaint will be forwarded to the Director of Human Resources or their designee (HR Director) for review and investigation.

(B) If the LA Coordinator determines that the complaint alleges misconduct that, if true, would be grounds for discipline, the LA Coordinator will forward the complaint and a recommendation to the CMD Director. The CMD Director will review the complaint and recommendation, and forward the information, along with any additional recommendations to the HR Director for review and/or investigation.

(e) **Investigation and Findings**

(1) Investigation

(A) Notice. Upon receipt of the request to investigate, the HR Director will provide the interpreter with a copy of the complaint and an opportunity to respond. The review and investigation shall be completed within 35 days of receipt of the request to investigate.

(B) Interim Suspension. In the interest of the administration of justice or the public, the Supreme Court, may suspend the interpreter from working for the courts during an investigation or until a final determination is made. The Supreme Court will notify the interpreter, in writing, of such suspension.

(C) Response from Interpreter. Within 14 days of receipt of notice from the HR Director, the interpreter may submit any relevant evidence or information in writing to the HR Director. The HR Director will review all the information provided and will include any response from the interpreter in the investigative report.

(D) Meeting with Interpreter and/or Witnesses. The HR Director may conduct meetings with the interpreter, complainant, and witnesses. Meetings may occur in-person, over the telephone, or video conferencing. The HR Director may contact witnesses and give evidence the weight they deem appropriate. Meetings are confidential, unless otherwise requested by the interpreter and agreed to by the HR Director.

(E) Report of Investigation. At the conclusion of the investigation, the HR Director will submit findings and recommendations to the CMD Director for review which includes specific factual findings as to whether conduct occurred that would be grounds for discipline.

(2) Findings

(A) No Grounds. If upon review of the Report of Investigation, the CMD Director determines that no grounds for discipline exist, the CMD Director shall dismiss the complaint and notify the interpreter and the complainant in writing. The notification shall include an explanation of the reason(s) for the determination.

(B) Additional Information. If the CMD Director determines that additional information is required prior to making a determination, a written request shall be sent to the interpreter with specific questions posed. All questions must be answered and returned within 7 days. If the interpreter fails to respond in writing within the allotted time, the CMD Director may, at his/her discretion, proceed with the discipline outlined in subsection (h) of this rule.

(C) Grounds for Discipline Present. If upon review of the Report of Investigation, the CMD Director determines by a preponderance of the evidence that grounds for discipline exist, the CMD Director shall send to the interpreter in writing, a summary of the allegation(s) contained in the complaint, the relevant investigative findings, a citation to any rules or procedures which were violated, and the sanctions deemed appropriate by the CMD Director. The CMD Director's determination shall be made within 14 days of receipt of the Report of Investigation.

(i) *Private Sanctions Imposed.* If the CMD Director finds by a preponderance of evidence that there are grounds for discipline and only imposes one or more of the private sanctions listed under subsection (h)(1) of this rule, such decision shall be final. The CMD Director shall send written notice of the decision to the interpreter, and the interpreter shall not be entitled to a hearing or further appeal.

(ii) *Public Sanctions Recommended.* If the CMD Director recommends public sanctions set forth under subsection

(h)(2), the interpreter may request a hearing as provided in subsection (f). If the interpreter does not request a hearing within 14 days of receipt of the CMD Director's findings and recommended sanctions, the sanctions will be final.

(f) **Hearing**

- (1) If the interpreter contests the CMD Director's determination and the recommended sanctions are public sanctions listed under subsection (h)(2), the interpreter may file an appeal with the Administrative Director of the Courts and request a hearing before the Court Interpreter Professional Conduct Subcommittee (Subcommittee). The Administrative Director of the Courts will request that the Supreme Court appoint an advisor to assist the Subcommittee. The advisor will assist the Subcommittee in conducting the hearing and may also question any witnesses appearing before the Subcommittee.
- (2) Hearing Procedures.
  - (A) Notice of Appeal. The appeal and any request for hearing must be made within 14 days of receipt of the CMD Director's findings and recommended sanctions. Failure to file an appeal within the allotted timeframe will result in a final determination and imposition of the recommended sanctions.
  - (B) Hearing Discretionary. The Subcommittee, at its discretion may set the matter for hearing or decide the matter based on the complaint, investigative report, and the information submitted without a hearing. If a request for hearing is granted, the hearing must take place within 42 days of the written request.
  - (C) Discovery. Discovery shall not be permitted.
  - (D) Hearings Recorded. All hearings shall be recorded electronically, and shall be a closed proceeding with the exception of the complainant who may attend with legal counsel.
  - (E) Legal Representation. The interpreter may be represented by legal counsel at his/her own expense.
  - (F) Evidence. Idaho Rules of Evidence shall not apply. The Subcommittee, in its discretion, may consider any evidence presented, including declarations and affidavits, giving such evidence the weight deemed appropriate. At the hearing, the CMD Director, the complainant, and the interpreter shall be afforded the opportunity to introduce documents, other relevant evidence, and present witness testimony. The Subcommittee may, at its

discretion, call witnesses, consider or clarify any relevant evidence presented, giving such evidence the weight deemed appropriate.

**(g) Final Determination**

- (1) If no hearing is held, within 14 days of the Notice of Appeal, the Subcommittee shall issue written findings of fact and conclusions of law for consideration by the Supreme Court. The Supreme Court will consider the findings and issue a final determination, within 21 days of receipt of the findings.
- (2) If a hearing is held, within 21 days of the conclusion of the hearing, the Subcommittee shall issue its written findings and recommendations to the Supreme Court for a final determination. The Supreme Court will consider the findings and issue a final determination, within 21 days of receipt of the findings.
- (3) The Subcommittee shall take action based on majority vote of its members.
- (4) The Supreme Court shall advise the interpreter and the complainant of its final determination in writing with a copy to the Administrative Director of the Courts. If the Supreme Court's decision includes sanctions against the interpreter, consistent with subsection (h) of this rule, the Supreme Court 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, roster status, or placing the interpreter at a lower qualification or skill level on the roster, the Supreme Court shall specify the conditions and timeframe within which the interpreter may apply for reinstatement of his/her prior certification or roster status.
- (5) The Supreme Court's determination shall be final and not subject to further review or appeal.

**(h) Sanctions**

If the Subcommittee finds by a preponderance of evidence that there are grounds for discipline under subsection (c) of this rule, the Subcommittee will recommend to the Supreme Court that it impose such discipline or sanctions as deemed appropriate. In determining what sanction is appropriate, the Subcommittee and the Supreme Court will 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.

- (1) Private Sanctions. Private sanctions that may be imposed include, but are not limited to:
  - (A) private reprimand;
  - (B) corrective action with which the interpreter must comply in order to remain on the roster;
  - (C) requirement of completion of education courses; or
  - (D) requirement that the interpreter work with a mentor, or that the interpreter's work be supervised.
- (2) Public Sanctions. Public sanctions that may be imposed include, but are not limited to those listed in (h)(1)(B)-(D) and:
  - (A) public reprimand;
  - (B) requirement that one or more parts of the interpreter court certification or ethics examination be retaken;
  - (C) placement of the interpreter at a lower qualification or skill level on the roster;
  - (D) limitation of the type of court hearings for which the interpreter may interpret; and/or,
  - (E) suspension or revocation of court interpreter certification or roster status.

(i) **Reinstatement**

Interpreters who are sanctioned for misconduct or noncompliance may apply in writing to the Supreme Court for reinstatement in accordance with the terms and conditions set forth in the final determination. The Supreme Court has sole discretion in granting or denying reinstatement, including the discretion to impose further conditions on reinstatement.

(j) **Confidentiality**

- (A) All complaints and investigations shall be confidential in accordance with I.C.A.R. 32, except that when public sanctions listed in subsection (h)(2) of this rule are imposed, the final determination, including grounds for the sanction(s) and the facts cited in support of the determination, shall be made available to the public upon request.
- (B) The Administrative Office of the Courts will provide information in accordance with I.C.A.R. 32 to judicial officers, Trial Court

Administrators, and court coordinators concerning actions taken against interpreters.