



Dear Katrin:

Thank you for requesting input from interpreters on the draft Interpreter Disciplinary Rules. Court interpreters in general, and the WITS Advocacy Committee in particular, appreciate very much your seeking our feedback. This is another example of the excellent relationship that you and the Interpreter Commission have fostered with members of our profession.

WITS Advocacy has met and discussed the draft rules, solicited input from WITS members, and consulted with the WITS Board of Directors. We have come up with a set of comments and concerns which we wish to share with you in this letter. Before getting to specific comments, we will say that as a whole, this appears to be a very good, well-thought-out set of rules. That said, we turn now to specific comments and request your careful consideration, as well as that of the Interpreter Commission as a whole.

The Code of Conduct for Court Interpreters. General Rule 11.2, the Code of Conduct for Court Interpreters, is mentioned three times in the draft rules: once in Section 1.1; once in Section 1.3; and once in Section 5.3 (but never by its full, correct name). As a court rule, the Code of Conduct takes precedence over any disciplinary rules. We feel it is important that this be stated in the Disciplinary Rules.

No jurisdiction over non-credentialed interpreters. Section 1.2, Jurisdiction, reads in part, “Any interpreter receiving [a] 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.” However, many legal proceedings are interpreted by persons who either have not yet achieved such a credential, or for whom such a credential is not available. This is a function of the vast number of languages spoken in the world today, contrasted with the necessarily limited number of languages for which a credential is available, among other factors. In any case, these rules will be much less effective if they do not apply to every person who renders interpretive services in a legal matter in Washington.

We would draw your attention to Section 1.3, Subsection g, which lists “Deliberate misrepresentation of certified or registered court interpreter credential” as grounds for discipline. Though a situation where a certified or registered interpreter engages in such misrepresentation is conceivable, this sort of misconduct would presumably be committed by non-credentialed interpreters who pass themselves off as registered or certified.

By way of comparison, we point out that the Preamble to the Code of Conduct reads thus: “All language interpreters serving in a legal proceeding, whether certified or uncertified,

shall abide by the following Code of Conduct.” This was written prior to the existence of a registered credential, and it wisely anticipates the need to use the services of interpreters of many languages, for some of which no credential exists. If the Interpreter Commission can assume jurisdiction over registered interpreters, we feel that it can just as well assume jurisdiction over non-credentialed interpreters.

No statute of limitation. Section 1.5, No Statute of Limitation, is of concern to us. We would not like to see an interpreter sanctioned for some allegedly bad act committed decades ago, above all in light of the rapid evolution of our relatively young profession.

Failing to appear. Under Section 1.3, Grounds for Disciplinary Action, Subsection f reads “Failing to appear for a scheduled court proceeding without good cause” as one of the grounds for discipline. In our discussions, we found that all of us had at one time or another simply mixed up appointments and made an honest mistake. This is the nature of the hectic, unpredictable life of an interpreter. Most court interpreters are freelancers working in different venues every day, and even staff interpreters tend to run a frantic schedule. We suggest adding the word “repeated,” as in “Repeated failure to appear for a scheduled court proceeding without good cause.” We feel that this would be more than adequate to dissuade truly irresponsible conduct without opening the door to punishing interpreters who make an honest mistake on occasion.

Gross incompetence. Along the same lines, also in Section 1.3, Subsection e reads in part, “Rend[er]ing services in a matter for which the interpreter is grossly incapable of performing.” We would like some more specific parameters on this item. As observed above, even the most experienced interpreters have at some point found themselves attempting to interpret for a matter for which they are woefully unprepared. This, again, is the unpredictable nature of our craft.

Interpreter protocol dictates that an interpreter faced with such a situation tell the judge right away. We refer to Canon C of the Code of Conduct, which reads in part, “When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court.” We fear that the “gross incompetence” section of the proposed rules might discourage interpreters from disclosing their reservations, as the Code requires. We would be delighted to work with the Commission on language that would take this into account.

Costs. Section 9.8, Costs and Fees, lists several kinds of costs that may be imposed on an interpreter who is disciplined. We would like to have a limit on costs. This is because, frankly, interpreters do not generally make as much money as practitioners of many other professions, such as lawyers, for example. In addition, the vast majority of court interpreters are freelancers, so our income is unpredictable at best.

We recognize that this sort of sanction will ideally be reserved for interpreters who engage in truly egregious misconduct. However, we feel that in such a case, other civil or

criminal sanctions will serve as sufficient punishment. We find the prospect of unlimited costs alarming.

Redress for frivolous claims. Finally, we must point out that being subjected to disciplinary action under these rules could mean severe financial hardship for an interpreter. In the event of a frivolous claim brought against an interpreter, we wish to have some sort of redress. While we do not wish to discourage legitimate claims of misconduct by an interpreter, we feel that if a person presents a claim against an interpreter that is later found to be frivolous, it would be appropriate that the person be held responsible for costs incurred by the interpreter, the Commission, or any other entity involved in the investigation of such a claim.

We thank you again for your request for interpreter input on these draft rules. It is our sincere hope that these comments, and those of Washington State court interpreters in general, are helpful to the Interpreter Commission as it continues its work, and we would be delighted to offer our assistance in this regard.

Yours truly,

A handwritten signature in black ink, appearing to read 'Kenneth Barger', with a stylized flourish at the end.

Kenneth Barger
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