

## **Complaint Procedure Rules for the Georgia Commission on Interpreters of the Supreme Court of Georgia**

These rules are promulgated by the Supreme Court of Georgia for the Commission on Interpreters. The Administrative Office of the Courts (AOC) will provide all necessary regulatory support and staff.

### **I. Definitions**

“Commission” – The Commission on Interpreters or its designee.

“Complainant” – One who files a complaint.

“Complaint” – A notarized administrative complaint filed by a party, or by the Commission, against a person or entity under the authority of the Commission, alleging that the person or entity is subject to discipline.

“Respondent” – One against whom a complaint has been filed. This may include a certified interpreter, conditionally approved interpreter, registered interpreter, or applicant.

“Response” – A notarized written answer to a complaint that is filed by a respondent at the direction of the Commission.

### **II. General Considerations**

#### **A. Time**

**1. Computation of Time.** Any period of time referenced within these rules refers to calendar days. The time period begins to run on the first day following the event requiring the computation of time. When the last day of the period so computed falls on a day on which the office of the Commission is closed, the period shall run until the end of the following business day. Any time-sensitive material must be received by the Commission by 5:00 p.m. local time on the date upon which it is due.

**2. Extensions of Time.** The Commission in its sole discretion and for good reason may extend any time limit prescribed or allowed by these procedures. All requests for such extensions, including requests for postponements or continuances, shall be made by written motion submitted to the Commission. The Commission shall notify all parties of its action on said motion.

#### **B. Communications**

**1. Communications Generally.** Any communications involving a complaint and the complaint process shall be submitted to the Commission in writing and submitted by mail or hand delivery, with the exception of requests for complaint forms. Copies of

communications may be sent via email to Commission staff. Communications shall not be addressed to individual members of the Commission or sent directly to the members of the Commission.

**2. No *Ex Parte* Communications.** No *ex parte* communications between the Commission members and parties, or attorneys for the parties, may occur. If any *ex parte* communications do occur, the Commission or its staff shall notify all parties of the communication, informing them of its substance and the circumstances of its receipt. Notwithstanding this provision, Commission members or a party to the complaint may communicate with the Commission's attorney or staff regarding the substance on any pending complaint.

**3. Receipt of Communications.** All communications under these procedures are deemed filed on the date upon which they are received at the Commission's principal address.

**C. Reasonable Accommodations**

The Commission reserves the right, in its sole discretion, on its own motion or on that of a party, to modify these procedures for good cause, including to make reasonable accommodations for parties or witnesses involved with a complaint who are limited English proficient or who have a disability as recognized by the Americans with Disabilities Act of 1990.

**D. Representation by Counsel for Parties**

All parties may be represented by counsel at any stage of the complaint process. Counsel shall promptly enter an appearance if counsel has not previously done so by signing the complaint, answer, or notifying the Commission's attorney or staff of the appearance in writing.

**E. Representation by Attorney General's Office for Commission**

If the Commission initiates a complaint on its own motion, it shall request the Attorney General's Office to represent its interests throughout the proceeding. If the Attorney General's Office declines to represent the body's interests, the Commission will appoint a special prosecutor to represent its interests.

**F. Limitation of Actions**

No proceeding under these rules shall be brought unless a complaint has been received at the Commission's office or instituted by the Commission within four (4) years after the commission of the act complained of. This limitation may be tolled at any period of time, not to exceed two years, where the respondent or the violation is unknown or the respondent's whereabouts are unknown.

**III. Complaints**

**A. Who May File**

A complaint may be filed by any party having knowledge of the subject matter of the complaint. The Commission, on its own motion, may also file a complaint. Likewise, the Commission may

substitute itself for the complainant in any case where: (i) the complainant is unavailable due to hardship (which includes imprisonment), unresponsiveness to the investigation, or abandonment of the complaint; (ii) the severity of the allegations in the complaint necessitates the Commission's substitution; or (iii) the Commission deems it necessary, in the interest of justice, to assume responsibility for the complaint.

**B. Forms**

The complaint must be submitted on the Commission's approved form. All exhibits or documentation in support of the complaint must be included with the form. The complaint form must be fully completed and notarized. Forms may be obtained via the Commission's website or by contacting the Commission directly at:

Administrative Office of the Courts  
ATTN: Commission on Interpreters Staff  
244 Washington St. SW, Ste. 300  
Atlanta, GA 30334

**C. Preliminary Review**

Before the Commission staff sends the complaint to the respondent for response, a preliminary review will be conducted. The AOC's Legal Compliance Officer, Staff Attorney, or equivalent staff member(s), and the Manager of the Office of Court Professionals, in conjunction with the Probable Cause Panel, will review the complaint to determine whether jurisdiction may exist and whether the allegations, if true, would constitute a violation of (1) the Supreme Court's Rule on Interpreters; (2) the Commission's Code of Professional Responsibility; or (3) Georgia law governing court interpreting.

**D. Recommendation of Dismissal of Complaint**

The complaint may be dismissed without prejudice if preliminary review results in a finding that: (i) these Rules have not been complied with; or (ii) after construing the complaint in a light most favorable to the complaining party, that the allegations of the complaint disclose with certainty that no violation of the applicable rules or statutes has occurred, that the Commission does not have jurisdiction of the matter, or that the relief sought by the complainant is not within the power of the Commission.

**E. Voluntary Dismissal**

A complainant desiring to voluntarily dismiss a complaint may initiate the dismissal of the complaint without permission prior to the filing of a response. After a response is filed, the complainant shall be required to file a motion to dismiss, at which point notice shall be provided to the respondent by the Commission. Dismissal is at the sole discretion of the Commission. The Commission may dismiss a Commission-initiated complaint without a motion.

**F. Request for Documents**

The preliminary reviewer or Commission may, at any time, require more documentation or specificity from the complainant in regards to the complaint.

### **G. Service of Complaint**

Persons and entities under the jurisdiction of the Commission shall inform the Commission, in writing, of their current name, mailing address, street address, e-mail address, and telephone number. The Commission may rely on the information on file in any effort to communicate with, contact, or otherwise perfect service on the person or entity. If the person or entity elects to only include a post office box address to the Commission, it will be deemed as a waiver of personal service. Acknowledgment of receipt of the complaint or a response will constitute conclusive evidence of service.

### **H. Intervention**

Within its sole discretion, the Commission, on motion at any time during the proceeding, may permit or prohibit the intervention of parties. Any non-party desiring to intervene must file a motion with the Commission specifying the grounds for intervention.

### **I. Confidentiality**

The status of a complaint will be communicated only to complainants, respondents, their attorneys, the Commission members, and the Commission staff. Once a complaint has been disposed of and private discipline has been issued, no information about the complaint may be disclosed to a requestor. The discipline may be factored into subsequent disciplinary cases against the respondent. For cases where public discipline is imposed, the Commission may release final disciplinary orders.

## **IV. Responses**

### **A. Response to Complaint**

Once the Probable Cause Panel determines that a complaint should be answered by a respondent, Commission staff will forward a notification, via certified mail, to the respondent's address on file, enclosing the complaint therein. The respondent will have thirty (30) days to file a notarized response to the complaint. The Commission staff may request further documentation or specificity after receiving the response.

### **B. Request for Hearing**

Either party may request a hearing before the Disciplinary Hearing Panel. A respondent's request must be made in writing within thirty (30) calendar days of receiving the complaint. A complainant's request must be made in writing within thirty (30) calendar days of receiving a copy of the response to the complaint. Failure to adhere to these guidelines will constitute a waiver of the hearing. It is within the Disciplinary Hearing Panel's discretion whether it grants a hearing if the right is waived. *See* IV.D. below. The Disciplinary Hearing Panel may require a hearing even if no party requests one.

### **C. Procedure Upon Receipt of Response**

Upon receipt of a response, the Commission staff shall review the response to ensure that it complies with these Rules.

**1. Non-Compliant Responses.** If the response does not comply with these Rules, the Commission staff shall notify the respondent that the response will not be considered by the Disciplinary Hearing Panel unless the defects are corrected within fifteen (15) calendar days of notice to respondent of the defects. If respondent fails to correct the defects within that time, the response will not be sent to the Disciplinary Hearing Panel by Commission staff. If they are corrected, the response will then be considered a compliant response as defined in the subsection immediately below.

**2. Compliant Responses.** If the response complies with these Rules or is amended to comply within fifteen (15) days, Commission staff will send the complaint and response to members of the Disciplinary Hearing Panel, as defined below, for consideration.

#### **D. Secondary Review**

Once the preliminary review has been completed and the respondent has filed a response, the Disciplinary Hearing Panel may:

- (1) Dismiss the complaint so long as it finds, after assuming all facts alleged in the complaint are true, that the undisputed evidence shows that a violation has not occurred;
- (2) Require further documentation from the parties;
- (3) Require a hearing; or
- (4) Resolve the case without a hearing if a hearing has not been requested.

If the Disciplinary Hearing Panel chooses to require further documentation from the parties, it may still dismiss the complaint in accord with the standards above or vote to hold a hearing thereafter. In the event the complaint is dismissed, it shall be with prejudice and may not be submitted again. Future complaints containing substantially similar allegations against the same respondent shall be dismissed if the allegations arise out of the same set of underlying facts as those in the previously dismissed complaint. A dismissal does not deprive the complainant of any remedy at law or equity. If the respondent has requested a hearing, the Disciplinary Hearing Panel may not make a final disposition of the matter without first holding a hearing, unless the right to a hearing is waived in writing by all parties.

### **V. Hearing**

#### **A. Notification of Hearing**

In the event the Disciplinary Hearing Panel elects to hold a hearing, the complainant and respondent shall be notified. The parties shall be given at least thirty (30) days' written notice by certified mail of the date, time, and location of the hearing. The Commission staff shall arrange the hearing time and place and notify the parties and witnesses of such. The location of the hearing may be fixed at any site in the State of Georgia, in the Disciplinary Hearing Panel's discretion.

**B. Participation of Complainant**

The complainant shall appear at the hearing in person and may be represented by counsel. The Disciplinary Hearing Panel may excuse the complainant from participation. In its sole discretion, the Disciplinary Hearing Panel, upon advance notice, may allow or require the complainant to participate by way of a deposition, by video or telephone conference, or any combination thereof. If the complainant fails to appear, the complaint may be dismissed for failure to prosecute.

**C. Participation of Respondent**

The respondent shall appear at the hearing in person and shall be given an opportunity to present his or her response after presentation of the complainant's case. The respondent may be represented by counsel. In its sole discretion, the Disciplinary Hearing Panel, upon advance notice, may allow or require the respondent to participate by way of a deposition, by video or telephone conference, or any combination thereof. If the respondent refuses or fails to appear without just cause, the Disciplinary Hearing Panel may take appropriate disciplinary or other action in the absence of such response.

**D. Hearing Officer**

The hearing shall be presided over by a hearing officer. The Disciplinary Hearing Panel may appoint one of its members or an independent third party as hearing officer to preside over the hearing. The hearing officer's duties shall include making rulings on motions, filings, and objections and issuing a final recommendation to the Disciplinary Hearing Panel. If the hearing officer is a member of the Disciplinary Hearing Panel, the hearing officer may vote only if there is a tie vote among the other voting members.

**E. Hearing Procedure**

The hearing officer shall establish the order of the hearing. At minimum, the complainant and respondent shall be given fair opportunity to be heard and present witnesses, including reasonable cross-examination of adverse witnesses. If there are insufficient members of the Disciplinary Hearing Panel to constitute a quorum, then the parties may waive the requirement of a quorum, or consent to the attendance by a member by video or telephone conference, or both. Any such waiver shall be noted on the record. A quorum shall consist of a majority of the members of the Disciplinary Hearing Panel.

**F. Role of the Disciplinary Hearing Panel**

The Disciplinary Hearing Panel may question parties or their witnesses at any time and will issue final findings of fact and conclusions of law.

**G. Evidence; Burden and Standard of Proof**

The Georgia rules of evidence shall apply but may be relaxed at the discretion of the hearing officer. At the hearing, the burden of proof is on the complainant to prove the alleged violation(s) by clear and convincing evidence.

**H. Witnesses**

Witnesses may be presented at a hearing by either party or by the Disciplinary Hearing Panel. The Disciplinary Hearing Panel shall issue subpoenas in blank to parties and their attorneys. It shall be the responsibility of the party or their attorney to serve subpoenas according to the terms of law. No hearing shall be delayed or continued for failure of a witness to attend unless a timely motion is made. Upon motion made, and for good cause shown, any witness may testify by video or telephone conference, or by deposition, provided that the right of cross examination is preserved. Any person who testifies shall do so under oath.

**I. Costs**

The Commission will bear the costs of recording and/or transcribing the hearing by a certified court reporter. Each party must pay for its own copy of the transcript, should it want one. The Commission will bear any cost for the arrangement of space for the hearing. Otherwise, parties must bear their own costs in attending and participating in the hearing, including payment to counsel, costs of travel to and from the hearing, and any other expenses. Any party wishing to be declared indigent must make a motion setting forth the grounds for such a declaration at least ten (10) days prior to the hearing.

**J. Executive Session**

The Disciplinary Hearing Panel may enter into executive session during or after the hearing to discuss findings or issues, or vote on issues presented during a hearing. Without limiting the foregoing, the Disciplinary Hearing Panel shall have the authority to exclude any or all persons during its deliberations on disciplinary proceedings.

**K. Disposition**

After a hearing, the Disciplinary Hearing Panel will issue within forty-five (45) days a final disposition of the matter, in the form of written findings of fact, conclusions of law, and final order. The Disciplinary Hearing Panel, for good cause and in its sole discretion, may determine that the time should be extended. The disposition shall be sent via certified mail, with return receipt requested, to all parties at their addresses of record.

**L. Informal Resolution of Complaint**

Efforts to resolve the complaint informally may be initiated by the Disciplinary Hearing Panel, the complainant, or the respondent at any time. Any resolution reached by the parties must be submitted to the Disciplinary Hearing Panel for approval. Upon approval of any resolution reached informally, all parties shall be notified in writing of the resolution reached, and any hearing shall be cancelled.

**M. Petition for Voluntary Discipline**

At any point prior to the hearing, a respondent may petition the Disciplinary Hearing Panel in writing to accept a petition for voluntary discipline in lieu of a hearing. If the petition is accepted, the resulting order will include all undisputed facts, the violations found, and the sanction to be administered. The order will be signed and dated by the respondent and the chair of the Disciplinary Hearing Panel, at which point it will become effective. Depending on the nature of the sanction imposed, the Disciplinary Hearing Panel may choose to make the order public.

## **VI. Sanctions**

### **A. Confidential Discipline**

The Disciplinary Hearing Panel may impose confidential discipline if it finds that the respondent engaged in conduct that was inadvertent, purposeful but in ignorance of the rules, or under such circumstances that the Disciplinary Hearing Panel concludes that the protection of the public and rehabilitation of the respondent would be best served by the issuance of confidential discipline. The discipline will not be disclosed to any parties except the respondent. Discipline may include additional training, continuing education, or mentoring. Confidential discipline may take the form of either of the following:

- 1. Letter of Admonition.** A letter of admonition will be sent to the respondent by the Commission staff detailing the conduct complained of, the findings by the Disciplinary Hearing Panel, and the rules violated. A copy of the letter will be placed in the respondent's file and may be used in the consideration of future discipline of the respondent.
- 2. Private Reprimand.** A private reprimand will be documented, and a document summarizing the reprimand will be placed in the respondent's file and may be used in the consideration of future discipline of the respondent. Commission staff will send a signed copy of the reprimand to the respondent. A private reprimand is considered the most severe form of confidential discipline.

### **B. Public Discipline**

Public discipline is a matter of public record and may be disclosed to any person. Commission staff may publish public discipline on the Commission's website, in a newsletter, via email, or in any other manner reasonably calculated to reach the population most likely to find the discipline relevant. The Disciplinary Hearing Panel may impose public discipline, which may include additional training, continuing education, mentoring, or a restriction on the types of cases to be handled by the respondent in the future. Public discipline may take the form of any of the following:

- 1. Public Reprimand.** A public reprimand will be documented, and a document summarizing the reprimand will be placed in the respondent's file and may be used in consideration of future discipline of the respondent. Commission staff will send a signed copy of the reprimand to the respondent.
- 2. Suspension.** The Disciplinary Hearing Panel may suspend the respondent's certification, license, or application for a specified term, or for an indefinite term conditioned upon compliance with those reasonable conditions imposed by the Disciplinary Hearing Panel in its final order.

**3. Revocation.** The Disciplinary Hearing Panel may revoke the respondent's certification, license, or application permanently.

## **VII. Appeals**

### **A. Appellate Body**

An adverse decision of the Disciplinary Hearing Panel may be appealed to the full Commission. Commission members on either the Probable Cause Panel or Disciplinary Hearing Panel must recuse themselves from the appeal, unless those members were not involved in any decision-making process about the matter on appeal. A majority of Commission members who are not members of either the Probable Cause Panel or Disciplinary Hearing Panel shall constitute a quorum for purposes of an appeal.

### **B. Procedure**

An adverse decision may be appealed by the respondent within thirty (30) days of the Disciplinary Hearing Panel's final disposition, by the filing of a notice of appeal with the Commission staff. The Commission's staff will notify the members of the Commission of the appeal. The notice of appeal shall enumerate the errors complained of, shall state the grounds for each enumerated error, and shall state why the respondent contends the decision should be reversed or modified.

At the appellate hearing, the respondent shall present its argument first. After the respondent concludes, the complainant may be asked to present an argument if the complainant's presence is required. The Commission may question the Disciplinary Hearing Panel or Probable Cause Panel members (if present) as to the basis of their decisions. The Commission will deliberate outside the presence of the Probable Cause Panel, Disciplinary Hearing Panel, and the parties.

Both the respondent and complainant are entitled to bring counsel to the appeal hearing.

### **C. Stay**

The mere filing of a notice of appeal shall not stay enforcement of the Disciplinary Hearing Panel's decision. However, if good cause is shown by the appellant, the Commission may grant a stay against enforcement of the decision pending the Commission's ruling on the appeal.

### **D. Transmittal of the Record**

Within thirty (30) days, or within such extension time as may be allowed by the Commission, the Commission's staff shall transmit a copy of the entire record regarding the matter on appeal to the Commission. The record will consist of the Disciplinary Hearing Panel's decision and the evidence it considered when making that decision. The Commission shall notify the appellant of the procedures to be followed on appeal.

### **E. Standard of Review**

The Commission will not substitute its judgment for that of the Disciplinary Hearing Panel in regard to the weight of evidence or facts, but may reverse or modify the original decision upon a

finding that substantial rights of the appellant have been prejudiced because the Disciplinary Hearing Panel's findings, inferences, conclusions or decision are: (1) in violation of constitutional or statutory law; (2) beyond the authority of the Disciplinary Hearing Panel in either substance or procedure; (3) clearly erroneous; or (4) arbitrary, capricious, or characterized by an abuse of discretion. Any decision by the Commission is final.