



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 24, 2019

Title

Court Interpreters: California Court
Interpreter Credential Review Procedures

Rules, Forms, Standards, or Statutes Affected

Repeal and adopt Cal. Rules of Court, rule
2.891; approve the *California Court
Interpreter Credential Review Procedures*

Recommended by

Court Interpreters Advisory Panel
Hon. Brian L. McCabe, Chair
Shawn Landry, Vice-Chair

Agenda Item Type

Action Required

Effective Date

January 1, 2020

Date of Report

August 9, 2019

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Executive Summary

To implement Recommendation 64 of the *Strategic Plan for Language Access in the California Courts*, the Court Interpreters Advisory Panel recommends that the Judicial Council (1) repeal rule 2.891 of the California Rules of Court, Periodic review of court interpreter skills and professional conduct; (2) adopt new rule 2.891; (3) approve the *California Court Interpreter Credential Review Procedures*, to take effect on January 1, 2020; and (4) delegate authority to the Administrative Director to approve future changes, when necessary, to the *California Court Interpreter Credential Review Procedures*.

Recommendation

To implement Recommendation 64 of the *Strategic Plan for Language Access in the California Courts* (LAP) and fulfill the legislative mandate that directs the Judicial Council, under Government Code section 68562(d), to adopt standards and requirements for interpreter discipline at the credentialing level, the Court Interpreters Advisory Panel (CIAP) recommends that the Judicial Council, effective January 1, 2020:

1. Repeal rule 2.891 of the California Rules of Court;
2. Adopt new rule 2.891;
3. Approve the new *California Court Interpreter Credential Review Procedures*; and
4. Delegate authority to the Administrative Director to approve future changes, when necessary, to the *California Court Interpreter Credential Review Procedures*.

The text of the new rule 2.891 is on pages 16–17. For the new *California Court Interpreter Credential Review Procedures*, see Attachment A.

Relevant Previous Council Action

The mandate to adopt standards and requirements for interpreter discipline was part of legislation enacted in 1992. (Sen. Bill 1304 [Lockyer]; Stats. 1992, ch. 770.) Prior to 1992, the State Personnel Board (SPB) and the Judicial Council shared responsibility for court and administrative hearing interpreters. The SPB established proficiency standards, administered a proficiency examination, and maintained and published a list of qualified interpreters. Government Code section 68564—repealed in 1992, though some requirements of former Government Code section 68564 are retained in the current version of the statute—required the Judicial Council to adopt rules and regulations for standards of professional conduct, for periodic review of court interpreter skills, and for removal from the SPB’s recommended list of qualified interpreters for failure to maintain the required skill level.¹

Early versions of SB 1304 required both the SPB and the Judicial Council to include within their duties: recruiting, training, testing, certification, continuing education, discipline, and evaluation of interpreters. The SPB opposed these expanded duties and, as a result, only the council was made responsible for fulfilling these responsibilities.

Upon passage of SB 1304, the Judicial Council was directed to set standards and requirements for interpreter proficiency, continuing education, certification renewal, and discipline. Government Code section 68562(d) states: “The Judicial Council shall adopt standards and requirements for interpreter proficiency, continuing education, certification renewal, and discipline. The Judicial Council shall adopt standards of professional conduct for court interpreters.”

Effective January 1, 1999, the Judicial Council adopted rule 984.4 (Professional conduct for interpreters),² which sets forth standards regarding accurate interpretation, conflicts of interest, confidentiality, legal advice, professional relationships, and continuing education.

On January 22, 2015, the Judicial Council adopted the *Strategic Plan for Language Access in the California Courts* (LAP). Seventy-five recommendations were made to expand and provide improved language access to limited-English-proficient (LEP) court users. Specific to the

¹ History regarding SB 1304 and the SPB is from communications dated June 2002.

² http://www.courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_890.

credential review procedures and rule 2.891, CIAP's Professional Standards and Ethics Subcommittee was tasked with addressing Recommendation 64, *Complaints regarding court interpreters*:

The Judicial Council, together with stakeholders, will develop a process by which the quality and accuracy of an interpreter's skills and adherence to ethical requirements can be reviewed. This process will allow for appropriate remedial action, where required, to ensure certified and registered interpreters meet all qualification standards. Development of the process should include determination of whether California Rules of Court, rule 2.891 (regarding periodic review of court interpreter skills and professional conduct) should be amended, repealed, or remain in place. Once the review process is created, information regarding how it can be initiated must be clearly communicated to court staff, judicial officers, attorneys, and in plain language to court users (e.g., LEP persons and justice partners).

Analysis/Rationale

Background

The credential review procedures and proposed rule 2.891 will assist the council and the courts to (1) implement the legislative mandate to adopt standards and requirements for interpreter discipline; and (2) establish a process for, and impose sanctions on California court-certified and registered interpreters as they relate to their certification and/or registration. The adoption of the *California Court Interpreter Credential Review Procedures* fulfills the council's legislative mandate and aligns the profession of court interpreting with the vast majority of professions that have disciplinary procedures in place.

Rule 2.890 (formerly rule 984.4), adopted effective January 1999, provides the legal authority and foundation for disciplinary procedures as legislatively mandated in Government Code section 68562(d).

Currently, court-imposed disciplinary actions or a decision to either terminate an independent interpreter's contract or dismiss an employee for violation of rule 2.890, or for acts of malfeasance, does not result in any sanction at the credentialing level that may have licensing consequences impacting a court interpreter's certification and registration status on the *Master List of Court Certified and Registered Interpreters* (Master List).³ This allows a court interpreter to remain on the Master List, as the court interpreter remains credentialed and able to accept other interpreting assignments.

³ The Master List is used to search for certified court and registered interpreters who are in good standing with the Judicial Council. California court-certified and registered spoken-language interpreters included on the Master List have passed the required Judicial Council-approved exams: <http://www.courts.ca.gov/35273.htm>.

In the case of an independent contract interpreter who negotiates contractual agreements with each individual court, when ethical, professional conduct, or performance issues arise, the court often stops using that interpreter locally, but generally takes no other action. As a result, other courts are often not aware of the issue and may negotiate new contracts with the interpreter in question, or maintain an existing contractual agreement with him or her. It appears that this approach is a frequent practice among local courts with respect to independent contract interpreters.

Consequently, there has been an ongoing need to establish a mechanism through the credentialing body, the Judicial Council, through the council's Court Interpreters Program (CIP) to conduct a credential review or impose sanctions on a credentialed interpreter for ethical violations; criminal convictions, such as those involving acts of moral turpitude, or other acts potentially related to someone's duties as an interpreter; or failure to meet the knowledge, skills, and abilities (KSAs) of court interpreting (i.e., performance-based issues that put into question an interpreter's ability to perform his or her job competently).⁴

Currently, California certified court and registered interpreters can only have their credential revoked due to noncompliance with annual renewal requirements. If their credential is revoked, they must retake all qualifying examinations currently in place in order to be reinstated to the Master List.⁵

To comply with Recommendation 64 and to fulfill the legislative mandate to adopt standards for interpreter discipline, CIAP's Professional Standards and Ethics subcommittee developed a complaint-based credential review process and proposed repeal and adoption of rule 2.891. Staff from the Labor and Employment Relations Unit and the Legal Services office also attended the meetings on a consultative basis.

Research conducted by the subcommittee and by the National Center for State Courts showed that all other state court systems and most professional organizations (such as the California Court Reporters Board, California State Bar, and Registry for Interpreters of the Deaf) that have disciplinary procedures in place share one common characteristic: disciplinary procedures result from the initiation of a complaint. The subcommittee found that 33 of 49 state court systems that have disciplinary procedures in place do not assess interpreter performance without a complaint first being filed. Accordingly, this led the subcommittee to develop a complaint-based process, consistent with best practices in other court systems and professional organizations.

The seven-member subcommittee included three certified court interpreters and one registered court interpreter to ensure the voice of the interpreter community was well represented. The interpreters on the subcommittee provided invaluable input regarding the concerns and needs of

⁴ Historical documents show that there have been attempts in the past at establishing disciplinary standards, in 2002 and 2006.

⁵ Information regarding interpreter annual renewal requirements are found at: <http://www.courts.ca.gov/23507.htm>.

the interpreter community. The resulting credential review procedures and revised rule of court are the result of a collaborative effort, focused on the goal of developing a discipline process and rule of court that will meet the needs not only of the courts, but also of the LEP community and community stakeholders.

Current rule 2.891, Periodic review of court interpreter skills and professional conduct

As currently written, rule 2.891, adopted in 1979, requires the courts to conduct a biennial review of the interpreting skill level and performance of employees and independent contractors. To date, statewide practices to conduct periodic reviews of interpreter skill and performance have not been implemented because:

- With over 150 languages interpreted in the California courts and with more than 1,900 court interpreters on the Master List,⁶ it is extremely difficult to establish a consistent set of standards and guidelines against which to fairly evaluate interpreter services;
- Trial courts generally lack the resources and expertise to conduct such evaluations, even if there was a clear set of guidelines and standards;
- An evaluation of interpreting requires an extremely detailed and expansive understanding of the language itself, as well as the technical, legal, and procedural skills involved in interpreting in a court environment; and
- Trial courts lack access to third-party linguistic experts who have the command of court practices and terminology necessary to conduct the required evaluation.

As a result of these difficulties, evaluations of employee interpreters have been generally limited to compliance with local personnel policies, collective bargaining agreements for employee interpreters, and contractual agreements for contract interpreters. Accordingly, the subcommittee determined that the rule needed to be repealed and replaced to account for realistic conditions that have impeded the courts' ability to comply with the rule as written since the rule's adoption in 1979. California is unique in the challenges it must address to establish a comprehensive, clear, and fair interpreter disciplinary policy. California has the largest number of credentialed interpreters on its Master List of any state in the country, as well as a much higher volume of interpreted proceedings in and out of courts.

Proposed rule 2.891, Request for court interpreter credential review

The repeal of current rule 2.891 recognizes the realistic operational and logistical constraints that pose a challenge to the courts from executing the rule as written. With the newly adopted rule 2.891, courts can address disciplinary issues that violate interpreter standards of conduct and technical ability, and acts of malfeasance for both employees and independent contractors.

The proposed rule 2.891 is intended to address the challenges the trial courts face in their efforts to comply with the rule's requirements by providing them with a credential review process that reflects best practices and procedures in other professions and state court systems. The proposed

⁶ There are currently 858 court employees on the Master List.

rule also recognizes the distinction between the obligation of the credentialing body to ensure interpreters abide by professional conduct and those of the employer to ensure employee interpreters follow workplace policies. Specifically, the proposed rule:

- Reiterates the Judicial Council’s authority, as the credentialing body, to review complaints against a court interpreter;
- Authorizes the implementation of the Judicial Council’s *California Court Interpreter Credential Review Procedures*, a new set of procedures designed to provide a standardized process for investigating and addressing interpreter violation of ethical canons and performance issues as they relate to interpreter licensure; and
- Specifies that trial court authority remains unchanged as it pertains to each court’s local human resources procedures, collective bargaining agreements, and contractual agreements with independent contract interpreters.

The need for *California Court Interpreter Credential Review Procedures*

The lack of a credential review process has been a source of frustration not only for the courts, but for the LEP community, outside entities that utilize court interpreters, and the vast majority of interpreters who preserve and maintain the integrity of the profession. It is important to note that the proposed procedures apply only to actions that affect licensing issues focusing on conduct that impacts the status of an interpreter’s credential (licensing) and will address the allegations that may rise to the level of requiring an investigation and possible hearing.

The credential review process does not preclude the courts from receiving complaints, conducting investigations, or taking corrective action against those employee interpreters who violate rules, policies, procedures, and/or collective bargaining agreement provisions applicable to the courts. Rather, the credential review process supplements local court actions, and:

- Promotes integrity and respect, and serves to further legitimize the profession;
- Aligns California certified court and registered interpreters with the majority of other professions and professional organizations, and state courts;
- Provides meaningful access to justice, and promotes public trust and confidence in the courts;
- Fulfills the Judicial Council’s mandate under Government Code section 68562(d);
- Establishes a process for the Judicial Council, in its role as the credentialing/licensing body, to review and adjudicate allegations of professional misconduct or malfeasance by spoken-language court interpreters; and
- Establishes due process protections and procedures governing the credential review process, including a review and appeal process.

The procedures are an easily navigable guide of how a review is initiated, conducted, and resolved consistent with procedures of other credentialed professions. They will serve as fair and clear procedures for court users, justice partners, and other entities who utilize the services of Judicial Council–certified court and registered interpreters.

The *California Court Interpreter Credential Review Procedures*⁷ will be a public-facing document, available on the Court Interpreters Program (CIP) website. CIP staff will also develop internal operational guidelines specific to the courts' needs and concerns.

Delegation of authority to the Administrative Director

CIAP recommends that the Administrative Director be delegated authority to adopt future changes to the review procedures. The delegation of authority is consistent with previous delegations of authority. CIAP will revisit the review procedures after one year of adoption, and make the determination if any modifications, additions, or clarifications are necessary. The following table lists the current authority of the Administrative Director:

Date Approved by Council	Description of Delegation
4/28/2000	Future selection of testing entities (spoken languages only).
8/24/2000	Approval of future changes to the <i>Compliance Requirements for Certified Court and Registered Interpreters</i> .
10/27/2000	Designation of additional languages for inclusion in the court interpreter certification exam program in the future.
8/15/2008	Set retake policies for court interpreter certification and registration examinations, effective immediately.
8/15/2008	Determine the number of test administrations per year for court interpreter certification and registration examinations, effective immediately.
8/15/2008	Determine the annual renewal fee that court interpreters pay to renew their certification and registration. The Administrative Director shall set the fee based on an analysis of the market rate that other peer organizations charge for the renewal of professional certifications, effective immediately.
10/23/2009	Set court interpreter certification and registration testing fees based on the current market cost for the administration of these examinations.
12/15/2009	Authorization/selection of testing entities to test and certify court interpreters for deaf or hard-of-hearing individuals.
4/17/2012	Adoption of market-rate exam fees to be paid by interpreter candidates.

⁷ The credential review procedures refer to disciplinary actions taken by the Court Interpreters Program as sanctions against an interpreter's credential.

Policy implications

Public comments received did not raise challenges to the need to establish disciplinary procedures at the credentialing level, or with the Judicial Council’s authority to discipline interpreters as it relates to their certification and registration (credentialing) status.

Comments

The credential review procedures and rule 2.891 were circulated for public comment from April 9 to June 8, 2018. CIAP received five comments. Commenters were exclusively from the courts and consisted of the Superior Courts of Los Angeles, Orange, Riverside, and San Diego Counties; and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee.

The Joint Rules Subcommittee and the Superior Court of Los Angeles County suggested that the word “local” be removed from the rule provision found in section (c)(1); line 3, which reads: “On a request made to the council by any person, **local** court, or other entity for the review of an interpreter’s credential for alleged professional misconduct or malfeasance by an interpreter credentialed by the council, the council will respond in accordance with procedures stated in the *California Court Interpreter Credential Review Procedures*.” The committee agreed, and the word “local” was removed from the rule.

The public comments submitted regarding the credential review procedures resulted in changes being made to the statute of limitations and clarification on submitting a request for credential review.

Following the comment period, and prior to taking a vote to recommend the procedures be adopted by the council, there was legitimate concern raised by some CIAP members as to the modifications made to the 90-day statute of limitations in the procedures. The concern raised was about the exception made for local courts that conduct their own investigations, and that may extend more than 90 days. It was noted, by those concerned, that it is not in the best interests of the interpreter being investigated, as a local investigation could take an extended period of time—exceeding 90 days, and up to several months—before it is determined that a credential review is warranted. Other members noted that courts are not motivated or inclined to have a long investigation, and are better served to expedite investigations. Courts depend on the services of the interpreter, and a long investigation would be detrimental to the courts that depend on interpreter services. The internal operational procedures will address this concern, and courts will be encouraged to seek guidance and consult with CIP or legal services if an internal investigation is initiated by a local court.

The following table illustrates the changes made to the credential review procedures following review of the public comments.

Page and Section	Original Text	Revised Text
Page 3, D. Statute of Limitations	Complaints submitted to the Judicial Council more than 90 days after the alleged misconduct will be rejected as untimely.	<p>Requests for a credential review of alleged misconduct as identified in section C. Ground for Sanctions on Interpreter Credentials, submitted to CIP by a person or entity other than a court more than 90 days after the alleged misconduct occurs will be rejected as untimely, and no further action will be taken.</p> <p>If a trial court receives a complaint that may require a credential review, the following time limits apply:</p> <ol style="list-style-type: none"> 1. Requests for credential review submitted by anyone other than a trial court, or that regard an independent contractor, must be submitted to CIP within 90 days of the alleged misconduct. 2. As the employing entity, a court should locally investigate any allegation of employee misconduct. If the results of the investigation may warrant a sanction on the interpreter's credential, the court must submit a request for credential review within 30 days of the completion of the investigation; or <ol style="list-style-type: none"> a. If a court requires the assistance in conducting an investigation and it is determined a credential review is required, the court must submit the request to CIP within 90 days of the date of the alleged misconduct; or b. If the 90-day period has elapsed, the court must submit the request for credential review to CIP within 30 days of becoming aware of the alleged misconduct, or after

Page and Section	Original Text	Revised Text
		<p>addressing an ongoing pattern of conduct that may require a sanction on a court interpreter's credential.</p>
<p>Page 3, E. Submitting a Request for Review</p>	<p>Any person or entity may submit a request for a credential review to the Judicial Council regarding a spoken-language interpreter who is a California certified court or registered interpreter and enrolled on the Master List.</p> <p>2. Must be signed under penalty of perjury.</p> <p>3. May be submitted in person to the Judicial Council, or sent by e-mail, or mailed to:</p> <p>5. May be submitted anonymously, but no acknowledgment or notice of any action taken will be sent to the petitioner.</p>	<p>Any person or entity, including the court, may submit a request for a credential review to CIP regarding a spoken-language interpreter who is a California court certified or registered interpreter and enrolled on the Master List. The request for credential review:</p> <p>2. Must be signed and dated under penalty of perjury. During the credential review process, the confidentiality of a complainant's identity will be preserved to the extent permitted by law.</p> <p>3. The request for credential review must include a detailed description of the alleged misconduct including, if known or available, the date, time, location, name of interpreter, the interpreter's badge number, the case file number of the proceeding interpreted, the names and contact information of any potential witnesses, and any documents or evidence that support the allegations.</p> <p>4. The request for credential review must be submitted to CIP, or to the local court where the allegation occurred. The request for credential review may be submitted in person or mailed to:</p> <p>Deleted number 5, during the CIAP's consensus following review of the public comment. Due to the potential severity of disciplinary sanctions, and impact on the interpreter, the bar should be set higher,</p>

Page and Section	Original Text	Revised Text
		and require the complainant, who is making the allegation, to provide their name and sign the request for credential review form.
Page 4, F. Assessment of a Request for Credential Review	<p>Within 30 days of receipt of the request for review, designated Judicial Council staff will assess the request for review and determine whether it is complete, meets jurisdictional requirements, and provides sufficient factual allegations that, if true, would constitute grounds for discipline.</p> <ol style="list-style-type: none"> 1. If the request for review does not meet these requirements, it will be rejected and the petitioner will be notified; or 2. If the request for review meets the requirements, council staff will provide written notice to the interpreter who is the subject of the request for review. The notice will contain a summary of the allegation(s), the date the allegation(s) took place, and the case file number of the case interpreted, if available. The notice must be sent within 45 days of the receipt of the request for review by the council staff; or 3. If the interpreter whose conduct is the subject of the request for review is being prosecuted or for other good cause, council staff may defer assessment of the request for review. Council staff will notify the petitioner and the subject interpreter of the deferral, 	<p>Within 30 days of receipt of the request for credential review, CIP staff will assess the request for credential review and determine whether it is complete, meets jurisdictional requirements, and provides sufficient factual allegations that, if true, would constitute grounds for sanctions up to and including revocation of an interpreter’s credential.</p> <ol style="list-style-type: none"> 1. The complainant will be notified within 45 days of the receipt of the request for credential review, informing the complainant that the request has been received and is being reviewed; or 2. The complainant may be asked to provide additional information for staff to assess the request for credential review. Supplemental information must be submitted within 30 days or as directed by CIP staff. 3. CIP staff will notify the complainant of the action to be taken regarding the request for credential review, and: <ol style="list-style-type: none"> a. If the request for credential review meets the jurisdictional requirements, written notice will be provided to the interpreter who is the subject of the request for

Page and Section	Original Text	Revised Text
	<p>the reasons for the deferral, and its anticipated duration, if known.</p>	<p>credential review. The notice will contain a summary of the allegation(s), the date the allegation(s) took place, and the case file number of the case interpreted, if available or applicable. The notice must be sent within 45 days of the receipt of the request for credential review by CIP staff; or</p> <p>b. Assessment of the request for credential review may be deferred if the allegations are related to pending civil or criminal litigation. CIP staff will notify the complainant and the subject interpreter of the deferral, the reasons for the deferral, and its anticipated duration, if known.</p> <p>4. If the allegations in the request for credential review do not meet jurisdictional requirements that warrant sanctions on an interpreter's credential, the complainant will be notified within 45 days of the receipt of the request for credential review.</p> <p>5. All requests for credential review and investigations are confidential, except when a final determination is made to impose the sanctions as provided in section L, Notification of Sanction on a Credential.</p> <p>6. The final determination, including the grounds for the sanction(s) may be made accessible to the public consistent with the rules governing public disclosure and California Rules of Court, rule 10.500.</p>

Public comments included questions regarding implementation at the court level, training required, and challenges and conflicts that may surface if the need arises to request a credential review due to the courts personnel policies and procedures, collective bargaining agreements, and Memoranda of Understanding (MOU). As the credential review procedures are a high-level procedural document—and will be publicly available—the specifics of how each individual court operationalizes the procedures and the interface between council staff and the courts will be addressed in the internal, court-specific operational procedural guidelines being developed.

Courts will be encouraged to consult with the council’s Labor and Employment Relations unit for guidance on those issues that directly relate to labor and employment questions that may arise. In addition, a request form credential review (complaint) form is being developed that will have clear instructions for courts on how to submit a request for credential review.

Alternatives considered

There were no alternatives considered to developing the credential review procedures. There had been discussion on developing the procedures as a rule of court. The subcommittee evaluated incorporating specific review and licensure action procedures in a new rule of court. Members determined that such procedures require a simple process for easy updating and modification to meet changing circumstances and requirements over time, which would be difficult to do with a rule. In support of this conclusion, it was found that guidelines and procedures for reviewing interpreters’ licenses used by other state courts were not contained in a fixed rule of court. For these reasons, the proposed rule addresses the policy issues of assigning authority to establish and carry out the necessary review procedures while separating the procedures themselves into a separate and more easily updated document.

Established disciplinary procedures—aligned with the LAP’s directive—are critical to ensuring the quality of interpreter services provided to the courts, justice partners, and other outside entities who trust and utilize the services of California certified court and registered interpreters. Without these procedures, respect for the profession will be compromised. Maintaining this respect is essential as we face the ongoing need to provide fair and equal access to LEP court users, judicial partners, and the community who depend on qualified court interpreters to further the goals of language access.

Fiscal and Operational Impacts

Fiscal and operational impacts for the Judicial Council

The estimated costs for credential reviews are entirely dependent on the number of requests for credential reviews received, the number that rise to the level of requiring an investigation, the length and complexity of an investigation, attorney fees, and, if required, the costs associated

with hearings that will be conducted by the California Office of Administrative Hearings. The current estimate for 10 investigations is \$184,000 to \$359,000.⁸

Financial resources were secured through the budgetary process to provide funds and additional staff resources required to implement the proposed procedures. The monies secured the following support:

1. ***Court Interpreter Credential Review.*** The establishment of an ongoing, judicial branch, court interpreter credential review process (administration, investigation, adjudication of interpreter cases processed through the Office of Administrative Hearings, and interpreter skill assessment). Included in the budget allocation, resources will be dedicated to contract through the council's procurement guidelines with qualified psychometricians and linguistic experts to develop a defensible language assessment tool, in the event an interpreter's language skills are found to warrant skill review as the result of an investigation.
2. ***Court Interpreter Specific Training.*** Adequate training and job skill enhancement will ensure that California's interpreters are qualified to perform the tasks associated with legal interpreting in the courts. Enhanced training will result in fewer errors in interpreted cases, fewer inaccuracies in court records, fewer complaints against interpreters, potential for fewer actions leading to dismissals, and less court user stress and confusion.

Fiscal and operational impacts for the courts

Commentators also noted that the credential review procedures will result in additional training for court staff and leadership to fully understand how to implement these procedures.

The implementation of any new policy or procedure demands that courts are provided with the resources and information to effectively execute any new directives. CIP staff is developing comprehensive guidance materials that include operational guidance for court leadership, council staff, and court personnel. The internal operational guidance materials will address the very legitimate concerns noted by the commentators. The materials will address courts that undertake a local investigation, as well as those that may require assistance, in order to determine if requesting a credential review is in order. The guidance materials currently being developed will include:

- Internal operational guidance materials to facilitate the implementation of the credential review process for courts and council staff.

⁸ Legal review of allegations is \$7,500–\$10,000 per review. Prosecuting attorney fees (if outsourced by Legal Services with existing contracts) are \$10,000–\$25,000 for each case. Office of Admin. Hearings: filing fee is \$100. ALJ is \$810 (est. 4 hrs. per hearing). Cost per case: \$18,410–\$35,910. Estimated 10 cases per year: \$184,100–\$359,100. (There may be other contractual fees or costs not reflected here.)

- Related products including FAQs (one for the courts and one for the public), and an instructional PowerPoint presentation of the credential review procedures for court administrators and other relevant court personnel.
- A request for credential review (complaint) form in plain English with clear instructions. The form will be translated into the top 8–10 languages and hosted on the Court Interpreter Program webpage.

CIAP and CIP staff are committed to working with the courts to provide support during the transition period and on an ongoing basis as further questions or situations, not previously anticipated, may arise after implementation.

Attachments and Links

1. Cal. Rules of Court, rule 2.891, at pages 16–17
2. Chart of public comments, at pages 18–32
3. Attachment A: *California Court Interpreter Credential Review Procedures*
4. Link A: Cal. Rules of Court, rule 2.890,
http://www.courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_890
Link B: *Strategic Plan for Language Access in the California Courts*,
<http://www.courts.ca.gov/languageaccess.htm>

Rule 2.891 of the California Rules of Court is repealed and adopted, effective January 1, 2020, to read:

1 ~~**Rule 2.891. Periodic review of Request for court interpreter skills and professional**~~
2 ~~**conduct credential review**~~

3
4 ~~Each trial court must establish a procedure for biennial, or more frequent, review of the~~
5 ~~performance and skills of each court interpreter certified under Government Code section~~
6 ~~68560 et seq. The court may designate a review panel, which must include at least one~~
7 ~~person qualified in the interpreter's language. The review procedure may include~~
8 ~~interviews, observations of courtroom performance, rating forms, and other evaluation~~
9 ~~techniques.~~

10
11 **Rule 2.891. Request for court interpreter credential review**

12
13 Certified and registered court interpreters are credentialed by the Judicial Council under
14 Government Code section 68562. The council, as the credentialing body, has authority to
15 review a credentialed interpreter's performance, skills, and adherence to the professional
16 conduct requirements of rule 2.890, and to impose discipline on interpreters.

17
18 **(a) Purpose**

19
20 This rule clarifies the council's authority to adopt disciplinary procedures and to
21 conduct a credential review, as set out in the *California Court Interpreter*
22 *Credential Review Procedures*.

23
24 **(b) Application**

25
26 Under the *California Court Interpreter Credential Review Procedures*, all court
27 interpreters certified or registered by the council may be subject to a credential
28 review process after a request for a credential review alleging professional
29 misconduct or malfeasance. Nothing in this rule prevents an individual California
30 court from conducting its own review of, and disciplinary process for, interpreter
31 employees under the court's collective bargaining agreements, personnel policies,
32 rules, and procedures, or, for interpreter contractors, under the court's contracting
33 and general administrative policies and procedures.

34
35 **(c) Procedure**

36
37 (1) On a request made to the council by any person, court, or other entity for the
38 review of an interpreter's credential for alleged professional misconduct or
39 malfeasance by an interpreter credentialed by the council, the council will
40 respond in accordance with procedures stated in the *California Court*
41 *Interpreter Credential Review Procedures*.

1 (2) On a request by the council in relation to allegations under investigation
2 under the *California Court Interpreter Credential Review Procedures*, a
3 California court is required to forward information to the council regarding a
4 complaint or allegation of professional misconduct by a certified or registered
5 court interpreter.

6

7 **(d) Disciplinary action imposed**

8

9 The appropriateness of disciplinary action and the degree of discipline to be
10 imposed must depend on factors such as the seriousness of the violation, the intent
11 of the interpreter, whether there is a pattern of improper activity, and the effect of
12 the improper activity on others or on the judicial system.

SPR18-30

Court Interpreters: California Court Interpreter Credential Review Procedures (repeal and adopt rule Cal. Rules of Court, rule 2.891 and adopt California Court Interpreter Credential Review Procedures)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee	AM	<p>Suggested Modifications:</p> <p>Rule 2.891(c)(1) Line 3, remove the word “local.” - “On a request made to the council by any person, local court, or other entity...”</p> <p><u>PROCEDURES</u></p> <p>D. Statute of Limitations When a complaint is received by court management either verbally or in writing, the court may conduct an investigation to determine any violation of court’s rules, policies or procedures, including those requirements set forth in rule 2.890 of the California Rules of Court. These investigations may take longer than 90 days. If after investigation the court determines a violation has occurred and elects to request a credential review as set forth in CRC 2.891, in addition to internal action, the statute of limitations for doing so may have expired.</p> <p>We suggest that the procedure provide for the following: if the complaint is received by the trial court, the JC should be notified and the statute of limitations for any subsequent Request for Review be tolled, pending completion of any underlying investigation.</p> <p>In addition, when a Request for Review is received by the JCC, the trial court should be notified to inform the court of possible violation of court’s rules, policies or procedures.</p>	<p>The committee agrees and has removed the word ‘local’ from line 3, of the rule of court, so it now reads, “On a request made to the council by any person, court, or other entity...” Incorporated the change into the rule of court.</p> <p>As all interpreters, both employees and independent contractors are subject to these procedures, the committee prefers that the statute of limitations for filing a Request for Credential Review from the date of the alleged misconduct remain 90 days for those allegations of misconduct received by a person or entity, other than the court.</p> <p>Section D. Statute of Limitations has been modified provide for courts whose investigations may exceed the 90 day statute of limitation. The committee recommends that courts consult the Legal Services office for guidance in the event that evidence is discovered after the 90 days has elapsed, or as soon as the determination is made that a credential review is warranted.</p> <p>The committee acknowledges that courts may require more than 90 days prior to requesting a credential review due to following progressive disciplinary procedures in accordance with the court’s collective bargaining agreements, personnel policies, rules and procedures. The result may find that an employee’s performance may require the court to take disciplinary action</p>

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Court Interpreters: California Court Interpreter Credential Review Procedures (repeal and adopt rule Cal. Rules of Court, rule 2.891 and adopt California Court Interpreter Credential Review Procedures)

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	Commentator	Position	Comment	Committee Response
			<p>E. Submitting a Request for Review E (5) - Change “received” to “sent.” “May be submitted anonymously, but no acknowledgment or notice of any action taken will be received sent.”</p> <p>Also, as stated above, when a Request for Review is received by the JCC, the trial court should be notified to inform the court of possible violation of court’s rules, policies or procedures. Notice could be provided by either the JCC upon receipt of Request, or by including on the form itself that a copy be sent to the trial court where the violation occurred, if applicable. An internal and concurrent investigation may be warranted.</p>	<p>and that may also constitute a need to submit a request for credential review. To assist the courts, operational procedures and guidelines are being developed and will be shared with the courts.</p> <p>Upon further review the committee made the decision to not provide for the submission of a credential review anonymously, due to the potential severity of the sanction that may be imposed, which has potential impacts an interpreter’s credential. The committee believes the bar should be set higher and the request must include the complainants name and signature of the one who is making the allegation.</p> <p>If a request for credential review concerns an employee of the court, the request will be returned to the court so the court may conduct an investigation into the employees conduct. If it is determined by the court that sanctions on an interpreters credential is warranted then the court is directed to contact the Legal Services office for guidance on how to proceed. If the interpreter is a court employee, on a case-by-case basis, we may need to inform the court of the outcome of an investigation, and will always do so if the court submits a request for credential review. This will be addressed in the operational guidelines being developed.</p>

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	Commentator	Position	Comment	Committee Response
			<p>F. Assessment of a Request for Review Suggest acknowledgment to petitioner of receipt of request and language that tells the petitioner that the request will be reviewed and investigated. Incorporate language that says investigations are confidential and if additional information is required, they (Petitioner) will be contacted. This eliminates the need to notify the petitioner of a rejected petition as defined in F (1) and informs the petitioner that they will be contacted if additional information is needed, acknowledging receipt of their request. Otherwise, JCC staff will receive emails and calls asking for acknowledgment of receipt and status of Request. Current language in F does not acknowledge receipt and only notifies the petitioner if the request is rejected.</p>	<p>Thank you, the committee agrees with these suggestions and the requested changes have been incorporated into the procedures.</p>
2.	Superior Court of Los Angeles County	AM	<p>Suggested Modifications:</p> <p>Rule 2.891(c)(1) Line 3, remove the word “local.” - “On a request made to the council by any person, local court, or other entity...”</p> <p><u>PROCEDURES</u> D. Statute of Limitations When a complaint is received by court management either verbally or in writing, the court may conduct an investigation to determine any violation of court’s rules, policies or procedures, including those requirements set forth in rule 2.890 of the California Rules of</p>	<p>The committee agrees and has removed the word ‘local’ from line 3 of the rule of court, so it now reads, “On a request made to the council by any person, court, or other entity...” Incorporated the change into the rule of court.</p> <p>As all interpreters, both employees and independent contractors are subject to these procedures, the committee prefers that the statute of limitations for filing a Request for Credential Review from the date of the alleged misconduct remain 90 days for those allegations of</p>

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	Commentator	Position	Comment	Committee Response
			<p>Court. These investigations may take longer than 90 days. If after investigation the court determines a violation has occurred and elects to request a credential review as set forth in CRC 2.891, in addition to internal action, the statute of limitations for doing so may have expired.</p> <p>We suggest that the procedure provide for the following: if the complaint is received by the trial court, the JC should be notified and the statute of limitations for any subsequent Request for Review be tolled pending completion of any underlying investigation.</p> <p>In addition, when a Request for Review is received by the JCC, the trial court should be notified to inform the court of possible violation of court’s rules, policies or procedures.</p> <p>E. Submitting a Request for Review E (5) - Change “received” to “sent.” “May be submitted anonymously, but no acknowledgment or notice of any action taken will be received sent.”</p>	<p>misconduct received by a person or entity, other than the court. Section D. Statute of Limitations has been modified provide for courts whose investigations may exceed the 90 day statute of limitation. The committee recommends that courts consult the Legal Services office for guidance in the event that evidence is discovered after the 90 days has elapsed, or as soon as the determination is made that a credential review is warranted.</p> <p>The committee acknowledges that courts may require more than 90 days prior to requesting a credential review due to following progressive disciplinary procedures in accordance with the court’s collective bargaining agreements, personnel policies, rules and procedures. The result may find that an employee’s performance may require the court to take disciplinary action and that may also constitute a need to submit a request for credential review. To assist the courts, operational procedures and guidelines are being developed and will be shared with the courts.</p> <p>Upon further review the committee made the decision to not provide for the submission of a credential review anonymously, due to the potential severity of the sanction that may be imposed, which has potential impacts an interpreter’s credential. The committee believes the bar should be set higher and the request must include the complainants name and signature</p>

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	Commentator	Position	Comment	Committee Response
			<p>Also, as stated above, when a Request for Review is received by the JCC, the trial court should be notified to inform the court of possible violation of court’s rules, policies or procedures. Notice could be provided by either the JCC upon receipt of Request, or by including on the form itself that a copy be sent to the trial court where the violation occurred, if applicable. An internal and concurrent investigation may be warranted.</p> <p>F. Assessment of a Request for Review Suggest acknowledgment to petitioner of receipt of request and language that tells the petitioner that the request will be reviewed and investigated. Incorporate language that says investigations are confidential and if additional information is required, they (Petitioner) will be contacted. This eliminates the need to notify the petitioner of a rejected petition as defined in F (1) and informs the petitioner that they will be contacted if additional information is needed, acknowledging receipt of their request. Otherwise, JCC staff will receive emails and calls asking for acknowledgment of receipt and status of Request. Current language in F does not acknowledge receipt and only notifies the petitioner if the request is rejected.</p>	<p>of the one who is making the allegation. If a request for credential review concerns an employee of the court, the request will be returned to the court so the court may conduct an investigation into the employees conduct. If it is determined by the court that sanctions on an interpreters credential is warranted then the court is directed to contact the Legal Services office for guidance on how to proceed. If the interpreter is a court employee, on a case-by-case basis, we may need to inform the court of the outcome of an investigation, and will always do so if the court submits a request for a credential review. This will be addressed in the operational guidelines being developed.</p> <p>Thank you, the committee agrees with these suggestions and the requested changes have been incorporated into the procedures.</p>

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	Commentator	Position	Comment	Committee Response
			<p><u>Request for Specific Comments:</u></p> <p>Does the proposal appropriately address the stated purpose? Yes</p> <p>Are there other grounds for disciplinary action not addressed in the procedures? No</p> <p>Would the proposal provide cost savings? If so please quantify. No savings to the court.</p> <p>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems. Manager training on procedure would be approximately one hour.</p> <p>Would three and a half months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p>	<p>No response required</p> <p>No response required</p> <p>No response required</p> <p>No response required</p> <p>No response required</p>

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	Commentator	Position	Comment	Committee Response
3.	Superior Court of Orange County by Orange County Superior Court (OCSC) Civil Division	NI	<p>The trial courts do not possess the technical or linguistic ability to evaluate the language skills of interpreters. Even if they did, the regional interpreter MOUs disallow this type of review of an interpreter’s performance. For these reasons, rule 2.891 has been mute. While the new rule moves that authority to de-credential an interpreter up to the JCC, it still requires a “request for credential review” to initiate that process. This raises the question of under what circumstances would a trial court be qualified to make such a request in the first place, and if doing so would run afoul of the regional MOU. The real result of de-credentialing an employee is to render them unemployable under the law, which would likely result in labor actions and require local resource time and costs, potentially even if temporary or probationary discipline measures are imposed.</p> <p>The JCC should consider making General Counsel and/or financial resources available to courts for actions arising from this proposal.</p>	<p>A review by the Legal Services Office of the Judicial Council has determined that the Judicial Council, as the certifying body for California certified court and registered interpreters, retains the authority to discipline interpreters, both employees and independent contractors, as it relates to their certification and/or registration. To assist the courts with their internal operational procedures, the Court Interpreters Program is developing operational guideline and procedures that will be shared with the courts.</p> <p>An analogy can be made to instances that would require a court to file a complaint with the California Court Reporters Board or California State Bar, which have credentialing complaint procedures in place. Assistance will be provided to any courts that receive appeals of disciplinary employment actions arising from credentialing sanctions resulting from these procedures.</p> <p>Assistance will be provided to courts, if needed, with investigating and defending any disciplinary actions taken against employee interpreters under existing litigation defense programs. Costs incurred by the courts who can conduct an independent investigation, prior to requesting a credential review will not be covered. Courts should contact the Legal Services office as soon as the determination is made that a credential review is warranted. The internal operational</p>

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	Commentator	Position	Comment	Committee Response
			<p>Does the proposal appropriately address the stated purpose? Yes</p> <p>Are there other grounds for disciplinary action not addressed in the procedures? No</p> <p>Would the proposal provide cost savings? If so please quantify. On one hand, de-credentialing an interpreter for cause may provide an indeterminate amount of procedural cost savings over time by eliminating bad actors who might be the basis for an issue on appeal or the reason for having to re-try cases. On the other hand, increased labor costs may result from employees invoking the formal labor process available to them.</p> <p>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p>	<p>guidelines being developed will address these concerns.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>The committee agrees that training and communication is key to the success of implementing these procedures. Operational procedures and guidelines are being developed and will be shared with the courts.</p>

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	Commentator	Position	Comment	Committee Response
			<p>Minimal training and communication on how to submit a formal request for review.</p> <p>Would three and a half months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes</p> <p>How well would this proposal work in courts of different sizes?</p> <p>No comment</p>	<p>No response required.</p> <p>No response required.</p>
4.	Superior Court of Riverside County	AM	<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes. The rule properly address the establishment of a process to review an allegation of professional misconduct or malfeasance against a California certified or registered court interpreter. Given that the Judicial Council recognizes a separate progressive discipline process, we recommend that the review process include additional detail concerning the coordination and follow-through at each stage of discipline.</p> <p>The proposed rule specifies that trial court authority remains unchanged as it pertains to each court’s local human resource procedures, collective bargaining agreements or contractual agreements. However, there are processes during the credential review that may overlap or cause a conflict with the court’s processes. The</p>	<p>Thank you for your considered comments. Judicial Council staff is committed to working closely with the courts in the areas where overlaps occur and where there may be conflicts. In order to assist the courts with the issues, questions, and challenges your court has addressed, operational procedures and guidelines</p>

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			<p>issues and steps to resolve such occurrences, i.e. where there is an overlap of procedures and investigatory procedure, should be better defined. For example:</p> <p>In the event that decertification of a certified or registered interpreter involves ongoing disciplinary issues of a current employee who has a history of disciplinary actions, the following details should be included:</p> <ol style="list-style-type: none"> 1. Steps and timelines for gathering disciplinary documentation relevant to decertification. 2. Factors to consider when a complaint is submitted to the Judicial Council and the court that is directly related to an ongoing disciplinary issue. Ensure the coordination of events and activities to avoid overlap or conflict. <p>Timely Notice to the Judicial Council: In the proposed Credential Review Procedure: The statute of Limitations, Item D, states that complaints submitted to the Judicial Council more than 90 days after the alleged misconduct will be rejected as untimely. However, consider the following:</p> <p>Scenario 1: What if the court received a complaint on the 89th day and there was insufficient time to process it? The rule and procedure allows for submission by the party to the Judicial Council or by the court. If the party submits the complaint to the local court rather than the Judicial Council, additional time would</p>	<p>specific to the concerns raised are being developed and will be shared with the courts.</p> <p>Section D. Statute of Limitations, has addressed this issue. A complaint received by the court on the 89th day, would now fall within the statute of limitations.</p>

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			<p>be needed for local review before submission to the Judicial Council. The process should address submission by both the party and the court as the timeframes may vary.</p> <p>Scenario 2: What if there is a reasonable delay in discovering alleged misconduct? Is there a provision to extend the 90 day limitation period? For example: a year after the hearing, it is discovered that confidential information was released by the interpreter and compromised the case. Would the Judicial Council still review the complaint?</p>	<p>As all interpreters, both employees and independent contractors are subject to these procedures, the committee prefers a 90 day statute of limitation for filing a Request for Credential Review from the date of the alleged misconduct remain in the procedures, for those allegations of misconduct received by a person or entity, other than the court.</p> <p>Section D. Statute of Limitations has been modified provide for courts whose investigations may exceed the 90 day statute of limitation. The committee recommends that courts consult the Legal Services office for guidance in the event that evidence is discovered after the 90 days has elapsed, or as soon as the determination is made that a credential review is warranted.</p> <p>The committee acknowledges that courts may require more than 90 days prior to requesting a credential review due to following progressive disciplinary procedures in accordance with the court’s collective bargaining agreements, personnel policies, rules and procedures. The result may find that an employee’s performance may require the court to take disciplinary action and that may also constitute a need to submit a request for credential review. To assist the courts, operational procedures and guidelines are being developed and will be shared with the courts.</p>

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			<p>Administrative Leave of Absence: We suggest the procedure include guidance concerning administrative leaves of absence. What is the notification process between the Judicial Council and the court when a leave of absence is administered and impacts a current employee-interpreter?</p> <p>Section N of the procedure specifies that the Judicial Council must notify the petitioner, the interpreter, and all relevant courts within 30 days of any disciplinary action taken. In the event of decertification, suspension or removal, is it possible that notification of the proposed disciplinary action could occur sooner in order for courts to plan for the absence of the interpreter, if applicable?</p> <p>Subsequent actions during investigatory review: We suggest developing a protocol to be followed to address claims of misconduct that occur after a different allegation has already been referred to the Judicial Council for review. This is necessary to avoid more than one investigation regarding the same or similar allegations.</p> <p>Probationary Employees: Address the following: During the investigatory review employees could be placed on probation when allegations are founded, although the allegations do not warrant decertification. We understand that the</p>	<p>De-certification or suspension requires a hearing, and action to taken is recommended by the Administrative Law Judge, and confirmed or rejected by a three member panel of CIAP. The complainant, interpreter and all relevant parties must be notified of any final action taken. The committee feels that notification (although it may be sooner than 30 days) within a 30 day window is reasonable.</p> <p>Although it is anticipated this will be a rare occurrence. The committee agrees and will this will be addressed in the internal guidance that will be provided to the courts.</p> <p>Probation imposed on an interpreter in a credentialing disciplinary action will in no way affect an interpreter employee’s probationary or permanent employment status with a court under a regional Memorandum of Understanding. The</p>

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			<p>Judicial Council could impose probation for a period of up to two years. There needs to be communication between the court and the Judicial Council concerning the impact of probation to ensure that the probation period imposed by the Judicial Council does not exceed the court’s regular probationary period for its employees, which is generally one year.</p> <p>Are there other grounds for disciplinary action not addressed in the procedures? No</p> <p>Would the proposal provide cost savings? Potentially, but only to the extent the local court receives a complaint against an interpreter employed by the court that rises to the level of a Credential Review Process, as the cost of any investigation would be borne by the Judicial Council, not the local court.</p> <p>What would the implementation requirements be for courts? Initial startup costs: Training and ongoing discussion and review processes between the leadership team and the Department of Human Resources, information team meetings, meet and confer with the union and the development of internal procedures and guidelines on how to address performance issues and criteria for referral to the Judicial Council.</p>	<p>credential review process is separate from a court’s employment policies/process.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

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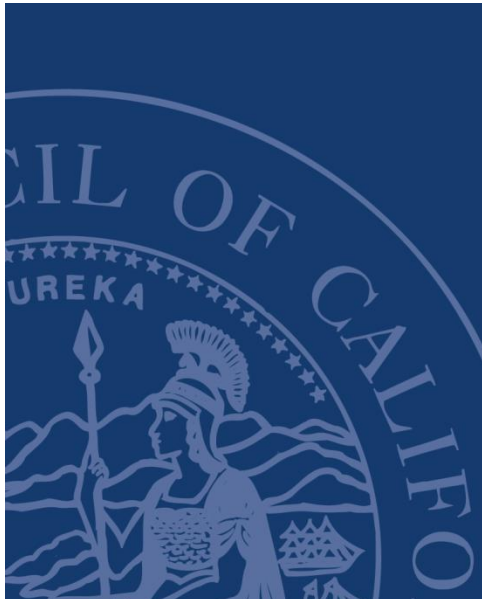
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	Commentator	Position	Comment	Committee Response
			<p>Issues that will require vetting, discussion and further development include but are not be limited to: Identify criteria that exemplifies gross incompetence. Develop communication protocol for referring interpreters for Credential Review. Outline relevant internal procedures. Develop a plan of action for monitoring employees who are placed on probation by the Judicial Council. Determine how to provide input to the Judicial Council concerning factors in mitigation and aggravation regarding an interpreter subject to the credential review process. Meet and confer with the labor union regarding the credential review process. Modify the existing contract for independent contractors to incorporate new rules and provisions related to the credential review process.</p> <p>Would three and a half months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Although three and a half months would be sufficient for the court to prepare its processes, the time required to implement this proposal is contingent upon the court’s ability to meet and confer with the labor union regarding the grievance and progressive discipline process.</p>	<p>No response required.</p> <p>No response required</p>

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	Commentator	Position	Comment	Committee Response
			How well would this proposal work in courts of different sizes? Probably equally well.	No response required
5.	Superior Court of San Diego County by, Mike Roddy, CEO, Superior Court of San Diego County	A	No comment	



California Court Interpreter Credential Review Procedures

EFFECTIVE JANUARY 1, 2020



JUDICIAL COUNCIL
OF CALIFORNIA

COURT INTERPRETERS
ADVISORY PANEL

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California Court Interpreter Credential Review Procedures

A. Purpose

Court interpreters play a critical role in facilitating accurate communications between the court and limited-English-proficient users. In performing that crucial function, court interpreters are governed by the professional conduct provisions of rule 2.890 of the California Rules of Court.¹ The Judicial Council of California adopts these credential review procedures in accordance with Government Code section 68562(d), which provides: “The Judicial Council shall adopt standards and requirements for interpreter proficiency, continuing education, certification renewal, and discipline. The Judicial Council shall adopt standards of professional conduct for court interpreters.”

These procedures reinforce the professional standards for certified and registered court interpreters by:

1. Establishing a process for the Judicial Council under its authority to issue court interpreter credentials, and to review allegations of professional misconduct or malfeasance against certified and registered court interpreters;
2. Defining the due process protections and procedures governing the credential review process;
3. Seeing that California certified and registered court interpreters meet and maintain minimum professional standards of practice; and
4. Safeguarding the quality and integrity of credentialed court interpreters in California.

The procedures set forth recognize the distinction between the obligations of the Judicial Council as the credentialing body to ensure interpreters abide by the codes of professional conduct as set forth in rule 2.890, *Professional conduct for interpreters*, and those of the employer to ensure interpreter employees follow workplace policies. Trial courts retain the authority to enforce their local personnel policies, collective bargaining agreements, and contractual agreements with independent contract interpreters.

The credential review procedures do not preclude a superior court—consistent with the court’s applicable memoranda of understanding, personnel policies, and/or local rules—from receiving and investigating complaints, conducting investigations, and taking the necessary disciplinary or corrective action against interpreter employees or contractors

¹ *Professional Standards and Ethics for California Court Interpreters*, published by the Judicial Council, is based on the principles and requirements set forth in rule 2.890 of the California Rules of Court. The manual is available at www.courts.ca.gov/documents/CIP-Ethics-Manual.pdf.

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who violate a court's rules, policies, and procedures, but rather supplement local court actions.

The credential review procedures are separate from discipline arising from an interpreter's work performance. However, discipline or corrective actions at the court on an employee interpreter may be considered in the credential review process, or, in regard to actions taken on an independent interpreter's contractual agreement with the court as a result of an allegation of misconduct or ongoing performance issues.

B. Jurisdiction

Every certified or registered spoken-language interpreter on the Master List of Certified Court and Registered Interpreters (Master List) is subject to these procedures.² Jurisdiction over an interpreter to enforce and act under these procedures exists regardless of whether the interpreter resides in California.

C. Grounds for Sanctions on Interpreter Credentials

As the entity responsible for issuing credentials to court interpreters in California, the Judicial Council of California's Court Interpreters Program (CIP) may impose sanctions on any California court certified or registered interpreter, up to and including revocation of an interpreter's credential. The grounds for sanctions may include:

1. Violation of rule 2.890 of the California Rules of Court;
2. Gross incompetence;
3. Deliberate misrepresentation of a certified court or registered interpreter credential, including failure to notify relevant parties of a suspension or revocation of a court interpreter credential;
4. Knowing and reckless disclosure of confidential or privileged information obtained while serving in an official capacity;
5. Fraud, dishonesty, or corruption related to the functions and duties of a court interpreter;
6. Conviction of a felony or misdemeanor;

² American Sign Language interpreters are credentialed by the Registry of Interpreters for the Deaf (RID). Information about filing a request for review of an RID-certified interpreter is found at www.rid.org/ethics/file-a-complaint/.

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7. Violation of California or federal law, including discrimination and harassment laws;
8. False or deceptive advertising after receipt of notification to discontinue; and
9. Violation of duties imposed by these procedures.

D. Statute of Limitations

Requests for a credential review of alleged misconduct as identified in section C, Grounds for Sanctions on Interpreter Credential, submitted to CIP by an individual or entity **other than a court** more than 90 days after the alleged misconduct occurs will be rejected as untimely, and no further action will be taken.

If a trial court receives a complaint that may require a credential review, the following time limits apply:

1. Requests for credential review submitted by anyone other than a trial court, or that regard an independent contractor, must be submitted to CIP within 90 days of the alleged misconduct.
2. As the employing entity, a court should locally investigate any allegation of employee misconduct. If the results of the investigation may warrant a sanction on the interpreter's credential, the court must submit a request for credential review within 30 days of the completion of the investigation; or
 - a. If a court requires assistance in conducting an investigation and it is determined a credential review is required, the court must submit the request to CIP within 90 days of the date of the alleged misconduct; or
 - b. If the 90-day period has elapsed, the court must submit the request for credential review to CIP within 30 days of becoming aware of the alleged misconduct, or after addressing an ongoing pattern of conduct that may require a sanction on a court interpreter's credential.

E. Submitting a Request for Credential Review

Any person or entity, including the court, may submit a request for a credential review to CIP regarding a spoken-language interpreter who is a California certified court or registered interpreter and enrolled on the Master List. The request for credential review:

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1. Must be submitted using the complaint form, available on the “Court Interpreters Program” webpage of the California Courts website:
<http://www.courts.ca.gov/programs-interpreters.htm>.
2. Must be signed and dated under penalty of perjury. During the credential review process, the confidentiality of a complainant’s identity will be preserved to the extent permitted by law.
3. The request for credential review must include a detailed description of the alleged misconduct including, if known or available, the date, time, location, name of interpreter, the interpreter’s badge number, the case file number of the proceeding interpreted, the names and contact information of any potential witnesses, and any documents or evidence that support the allegations.
4. The request for credential review must be submitted to CIP, or to the local court where the allegation occurred. The request for credential review may be submitted in person or mailed to:

Judicial Council of California
Court Interpreters Program
455 Golden Gate Avenue
San Francisco, CA 94102-3688

The complaint form requesting a credential review, along with supporting documentation, may also be submitted by e-mail to: credreview@jud.ca.gov.

F. Assessment of a Request for Credential Review

Within 30 days of receipt of the request for a credential review, CIP staff will assess the request for credential review and determine whether it is complete, meets jurisdictional requirements, and provides sufficient factual allegations that, if true, would constitute grounds for sanctions up to and including revocation of an interpreter’s credential.

1. The complainant will be notified within 45 days of the receipt of the request for credential review informing the complainant that the request has been received and is being reviewed; or
2. The complainant may be asked to provide additional information for staff to assess the request for credential review. Supplemental information must be submitted within 30 days, or as directed by CIP staff.

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3. CIP staff will notify the complainant of the action to be taken regarding the request for credential review, and:
 - a. If the request for credential review meets the jurisdictional requirements, written notice will be provided to the interpreter who is the subject of the request for credential review. The notice will contain a summary of the allegation(s), the date the allegation(s) took place, and the case file number of the case interpreted, if available or applicable. The notice must be sent within 45 days of the receipt of the request for credential review by CIP staff; or
 - b. Assessment of the request for credential review may be deferred if the allegations are related to pending civil or criminal litigation. CIP staff will notify the complainant and the subject interpreter of the deferral, the reasons for the deferral, and its anticipated duration, if known.
4. If the allegations in the request for credential review do not meet jurisdictional requirements that warrant sanctions on an interpreter's credential, the complainant will be notified within 45 days of the receipt of the request for credential review.
5. All requests for credential review and investigations are confidential, except when a final determination is made to impose the sanctions as provided in section L, Notification of Sanction on a Credential.
6. The final determination, including the grounds for the sanction(s) may be made accessible to the public consistent with the rules governing public disclosure and California Rules of Court, rule 10.500.

G. Investigation of Request for Credential Review and Issuance of Charging Document

1. The investigation may include, but is not limited to:
 - a. Interviewing the complainant, interpreter, witnesses, and other relevant persons. If the interpreter chooses not to participate or respond to questions, the investigation may continue without the interpreter's participation.
 - b. Reviewing records, documents, case files, and other materials.
 - c. Requesting information and materials from the interpreter and other relevant persons. The interpreter must respond to all inquiries within 30 days of receipt of the request for information or materials unless CIP staff grants an extension upon a

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- showing of good cause. If the interpreter chooses not to respond to the request for information or materials, the investigation may continue without the interpreter's participation.
- d. Consulting with a subject matter expert on the duties and requirements to serve as a court interpreter.
2. At the conclusion of the investigation, if grounds for one or more sanctions exist, a charging document is prepared by CIP staff or its legal counsel that provides the evidentiary basis for the conclusions supporting identified sanctions on an interpreter's credential. The charging document will be concurrently: (1) served by CIP staff or its legal counsel on the interpreter; and (2) filed with the Office of Administrative Hearings (OAH), which will thereafter have jurisdiction over the administrative process of pursuing sanctions against an interpreter's credential. CIP staff may in its discretion provide advance notice to the interpreter that a charging document will be filed.
 3. Once a charging document is filed and served, the procedures set forth in the Administrative Procedure Act (APA), Government Code section 11500 et seq., will apply and are incorporated herein. The procedures of the APA will apply in pursuing sanctions against an interpreter's credential unless the language in these procedures provides differently, in which case the language in these procedures will control.
 4. The interpreter may request a hearing to contest the charges after engaging in good faith dispute resolution efforts as set out below under subdivision (5). To request a hearing, the interpreter must serve a Notice of Defense on the Judicial Council's Court Interpreters Program office, or its legal counsel, and file it with the Office of Administrative Hearings within 30 days of service of the charging document. Failure to timely serve a Notice of Defense by the deadline will result in the interpreter's default in challenging the proposed sanctions pursuant to Government Code section 11520.
 5. Prior to filing a Notice of Defense and requesting a hearing, the interpreter and CIP staff or CIP's legal counsel must engage in informal good faith dispute resolution efforts (i.e., a phone conference to discuss potential resolution; formal mediation before a third party is not required). If they are unable to resolve the charges, the case will proceed to hearing.

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H. Resolution without Issuance of a Charging Document

With the approval of CIP staff, a request for credential review may be resolved before the issuance of a charging document.

1. A request for credential review may be resolved by:
 - a. Voluntary withdrawal of the request for credential review by the complainant before the issuance of the charging document;
 - b. Voluntary surrender of the interpreting credential by the interpreter and removal of the interpreter from the Master List; or
 - c. A settlement agreement that is signed by the interpreter and the Judicial Council's Administrative Director or his or her designee. Approval of a settlement by the Administrative Director or his or her designee constitutes a final decision and is not subject to further review.
2. Voluntary surrender of the interpreting credential requires the interpreter to provide CIP with written notice of the interpreter's voluntary surrender of the interpreting credential. Upon submission of the written notice to CIP, any credential review and/or administrative hearing process to impose sanctions or revocation on a credential, commenced hereunder will terminate. Upon surrender of the interpreter's credential, the interpreter will be removed from the Master List and will no longer be eligible to interpret in the California courts and be a part of the Court Interpreter's Program. The request for credential review and the sanctions arising from the proceedings may be reviewed in the event the interpreter seeks to reinstate his or her credential.
3. Sanctions taken on a court interpreter's credential may be posted on the CIP webpage consistent with the rules regarding public disclosure.
4. At the discretion of CIP, any of the resolutions provided for above may be considered and accepted after the filing of a charging document.

I. Right to Representation

An interpreter may be represented by legal counsel under these procedures, at the interpreter's expense.

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J. Proceedings before the Office of Administrative Hearings and Judicial Council Advisory Panel Review

Hearings will be conducted in the OAH before an administrative law judge and will proceed under the procedures and requirements set forth in the APA.³

After a hearing before an administrative law judge, he or she shall prepare a proposed decision and order pursuant to Government Code section 11517(c). Thereafter, the proposed decision and order of the administrative law judge will be reviewed by a three-member panel consisting of current members of the Judicial Council's Court Interpreters Advisory Panel (CIAP) pursuant to Government Code section 11517(c)(2), and the three-member panel may take any action as provided for in that section.⁴

K. Sanction⁵ Regarding a Credential

1. The type of sanction on an interpreter's credential must include consideration of aggravating and mitigating circumstances, including but not limited to:
 - a. The intent of the interpreter;
 - b. The gravity and impact of the harm to the complainant, the court, litigants, third parties, or judicial processes; and
 - c. The interpreter's history of prior discipline, including any pattern of improper conduct.
2. Sanctions on an interpreter's credential may include but are not limited to one or more of the following:
 - a. Revocation of a certified or registered status credential that is permanent or temporary;

³ Administrative Procedure Act, at https://oal.ca.gov/publications/administrative_procedure_act/, and Gov. Code, § 11500 et seq., at https://california.public.law/codes/ca_gov't_code_section_11500.

⁴ One member of the three-member panel must be a certified court or registered interpreter member of the Judicial Council's Court Interpreters Advisory Panel.

⁵ Separate from the *California Court Interpreter Credential Review Procedures*, California certified court and registered interpreters can be suspended or have their certification revoked for failure to comply with annual compliance requirements as outlined in the Compliance Requirements for Certified Court and Registered Interpreters, at <http://www.courts.ca.gov/23507.htm>.

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- b. Suspension of certified or registered status for a specified period of time after which the interpreter must make a written request to the Court Interpreter Program for reinstatement of his or her credential;
- c. Probation for a fixed period of two years or less during which time the interpreter must meet the probationary terms as defined by the final decision and order to maintain credential status;
- d. A requirement that specific education courses be taken to maintain credential status;
- e. A public or private reprimand; and
- f. A requirement that the court interpreter take the credentialing examinations in place at the time the final decision and order are issued.

L. Notification of Sanction on a Credential

1. CIP staff or its legal representative must notify the complainant, the interpreter, and all relevant courts within 30 days of a final decision and order being issued that specifies a sanction against the interpreter's credential. A final decision and order consist of either the three-member panel's adoption of an administrative law judge's proposed decision pursuant to Government Code section 11517(c)(2)(A)–(D), or issuance of a new decision of the three-member panel pursuant to the procedure described in Government Code section 11517(c)(2)(E).
2. CIP may post information about an interpreter's credential status on the "Court Interpreters Program" webpage consistent with the rules governing public disclosure.

M. Appeals

The interpreter may appeal the final decision and order as authorized by Government Code section 11523 of the APA.

N. Reinstatement

An interpreter whose California court interpreter credential has been suspended or temporarily revoked may apply in writing to CIP for reinstatement within the time established in the decision and order that imposed the sanction. CIP will have sole discretion in determining whether the conditions for reinstatement have been satisfied.

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O. Confidentiality

All requests for review, evidence collected, and investigations must be confidential, except when a final decision and order to impose a sanction on an interpreter's credential are reached. In those limited circumstances, the final decision and order, the grounds for the sanction(s) imposed, and the facts cited to support the final decision and order on credential-related sanction(s), up to and including revocation of an interpreter's credential, must be accessible to the public.

A final decision and order exist in accordance with section L, Notification of Sanction on a Credential.

Publicly accessible information may be posted on the Judicial Council's "Court Interpreters Program" webpage or may be made available through a public records request to the Judicial Council under Government Code section 68106.2 and rule 10.500 of the California Rules of Court.