



Association of  
Visual Language Interpreters  
of Canada

## RECOMMENDATIONS FOR PROFESSIONAL COMPLIANCE REVIEW PROCESS - May 14, 2015

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### SUMMARY

- 1) The current name "Dispute Resolution Process" (DRP) be changed to "Professional compliance<sup>1</sup> review process" (PCRP).
- 2) AVLIC's current bylaws be revised to ensure there is a proper legal foundation for the PCRP.
- 3) Legal counsel be retained to prepare the required amendments to AVLIC's bylaws in accordance with the *Canadian Not-For-Profit Corporation Act*.
- 4) AVLIC develop a separate set of *PCRP Policies and Procedures* to flesh-out the necessary guidance and details to support the new PCRP bylaws.
- 5) AVLIC ensure that all those involved in the PCRP are properly trained in complaint investigation and resolution techniques.
- 6) AVLIC set aside sufficient resources to fund a formal complaint adjudication process should it become necessary to take that final step.
- 7) If an affiliate chapter develops its own complaint investigation and adjudicative bylaws, policies and procedures, such rules and processes should be substantially similar to the AVLIC's PCRP.
- 8) If an affiliate chapter has developed its own rules and processes, it must promptly inform AVLIC and obtain a letter confirming that its rules and processes are substantially similar to AVLIC's PCRP.
- 9) AVLIC must establish an agreement with affiliate chapters who have title protection as to the consequences for AVLIC membership in cases when the affiliate chapter rules that the membership of one of their members be suspended or revoked.
- 10) If AVLIC receives a complaint about a member from an affiliate chapter, that complaint would be directed to that provincial association for investigation and resolution under its

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<sup>1</sup> Legal counsel retained by AVLIC strongly recommends that "compliance" in the title be replaced with "conduct". The new dispute resolution process will be called "Professional Conduct Review Process".

process; that only if its rules and processes have been found to be substantially similar to AVLIC's PCRCP.

- 11) As a foundational requirement for membership in AVLIC, all applicants must agree in writing that they will adhere to AVLIC's Bylaws and the CoEGPC once they become members.
- 12) AVLIC should partner with agencies and encourage them to only hire or contract with interpreters who are AVLIC members in good standing.
- 13) It be a condition of membership that an AVLIC member must participate in and cooperate fully throughout the PCRCP; failure to do so will have further consequences.
- 14) If a member resigns during an investigative, resolution or disciplinary process, a bylaw should make it clear that those processes may continue and final decisions may be made without the further or direct participation of the (former) member.
- 15) A member who is the subject of a formal complaint must (i) be informed within a reasonable period of time about the complaint, and (ii) be given an opportunity to respond to the issues raised therein.
- 16) Members must complete, at least once every 4 years, mandatory educational segments on the CoEGPC and the PCRCP as a condition of the renewal of their membership.
- 17) AVLIC provide easy to use and understandable information about the PCRCP and how anyone can access this process, even if they do not want to file a formal complaint.
- 18) Person with Complaint (PwC) be encouraged and supported to resolve their concerns informally with the member, with or without AVLIC assistance; however, they must always have the option to proceed to file a formal complaint.
- 19) Appropriate support and information be provided to those persons who contact AVLIC with a concern or with a formal complaint, in particular to help these PwC articulate their concern so that it can be given due consideration.
- 20) Every PwC be given meaningful opportunities to participate in the investigation, resolution or adjudication of their complaint, and to ensure that their voice is heard and considered by the subject member and AVLIC's Professional Compliance Team and Adjudication Panel.
- 21) There be a single point of entry for submitting a concern or complaint, such as through a Web-based form or uploaded ASL video. This single point of entry should also serve to address inquiries about the PCRCP.
- 22) A complaint must (a) disclose the name of the PwC, (b) name a member or allow a member to be identified, (c) describe conduct that, if proven, could constitute improper conduct or conduct unbecoming or indicate a specific breach of the CoEGPC, (d) be within jurisdiction, (e) not regard a matter that is already being addressed in another legal forum or should be

addressed in another forum, and (f) must be filed within two years of the events taking place.

- 23) A concern or complaint brought forward to AVLIC about the professional conduct of an interpreter be only considered if the matter concerns the conduct of an identifiable interpreter who is also an AVLIC member.
- 24) The PCRCP be focused on addressing a concern or complaint only where, if it is substantiated, it would likely constitute a potential breach of the CoEGPC.
- 25) In turn, a separate process be used to deal with non-CoEGPC matters.
- 26) The PCRCP not accept or respond to anonymous concerns or complaints.
- 27) A time limit be placed on when a concern or complaint can be brought forward and that this limit be set at 2 years after the interpreted event.
- 28) Where the member is a salaried employee or the complaint is the subject of a collective agreement, AVLIC's investigation of the complaint not proceed until the Association is assured that the employer has addressed the matter.
- 29) Where the subject matter of a complaint has been or is being investigated by the police or is the subject of a legal action in court, AVLIC's investigation of the complaint not proceed until such time as the Association is assured that the criminal or civil matter has concluded.
- 30) The PCRCP provide a range of alternative resolution processes to settle by mutual agreement a *bona fide* concern or complaint and to do so in an informal and non-adversarial fashion, and without the need to proceed to a formal adjudication hearing.
- 31) The rules governing the alternative forms of complaint resolution should be sensitive to the needs and circumstances of the PwC and the subject member, and be confidential.
- 32) A citation (if not also a notice of hearing) must be issued to the member, who is the subject of the complaint, to initiate a formal adjudication hearing. The citation must (a) identify the member, who is the subject of the complaint, as the respondent; (b) describe the nature of the complaint or other matters that are to be the subject of the hearing, including the particulars of any evidence in support of any allegations; (c) specify the time, date and place of the hearing; and (d) advise the respondent that the Adjudication Panel is entitled to proceed with the hearing in her/his absence.
- 33) The adjudication hearing itself must be conducted in a fair and impartial manner, and the Adjudication Panel conducting the hearing must be comprised of persons who have had no prior involvement in or knowledge of the matter.

- 34) The Adjudication Panel be given the clear authority to make final decisions and issue orders that reflect its findings.
- 35) The Adjudication Panel must issue within a reasonable period of time after the end of a hearing a final written report that documents its findings, decisions, orders, etc.
- 36) If a member has his or her membership terminated, that former member is no long entitled to represent him/herself as a member of AVLIC or as an AVLIC certified Interpreter.
- 37) If the member has had his or her membership suspended, then – during the term of that suspension – the suspended member is not entitled to represent him/herself as a member of AVLIC or as an AVLIC certified Interpreter, but may only use the designation “suspended member”.
- 38) The administrative structure of the PCRCP be guided by new PCRCP bylaws and *PCRCP Policies and Procedures*.
- 39) A standing Professional Compliance Team be appointed to make all decisions regarding the intake and investigation of concerns or complaints, the different options as to how a complaint might be resolved, and if necessary the initiation of a formal adjudication process to address a complaint.
- 40) The Professional Compliance Team be co-chaired by two part-time remunerated coordinators (one deaf and one hearing coordinator) reporting directly to the Board.
- 41) The Professional Compliance Team be comprised of 10 to 12 members – representing the five geographical regions within Canada, with the exception of British Columbia where WAVLI has its own ethical compliance process.
- 42) The Professional Compliance Team appoint Professional Conduct Reviewers: At least 2 members from within its ranks to investigate and try to resolve a received complaint.
- 43) The mandate of the Professional Conduct Reviewers as described above be prescribed within the bylaws.
- 44) The bylaws give the Professional Conduct Reviewers the authority to recommend to the Professional Compliance Team that a citation be issued against a member.
- 45) If the Professional Compliance Team agrees with the Professional Conduct Reviewers’ recommendation, the bylaws further authorize the co-chairs of the Team to issue a citation against the subject member.
- 46) The bylaws require the Board to appoint a three-person Adjudication Panel to conduct a hearing and adjudicate the allegations set out in the citation.

- 47) The bylaws would further direct that the Adjudication Panel be composed of persons who have no prior knowledge of the allegations set out in the citation and are not in a conflict of interest or biased for or against the respondent member or the PwC.
- 48) The bylaws create a mechanism to identify/disclose conflicts of interest or concerns about bias, and to also provide a mechanism to resolve such problems, including the option to replace a Professional Compliance Team member or a member of the Adjudication Panel.
- 49) As it implements its PCRCP, AVLIC use all available opportunities (website, ASL and English videos, town hall meetings, emails, social media, advertisements, etc.) to launch a nationwide awareness campaign for the Deaf community, AVLIC members, non-Deaf consumers and the general public, informing them of the revised Professional compliance review process and publicizing extensively the web address (URL) to access the service.
- 50) That AVLIC use a continuous assessment process to determine the needs for continued education and to provide direction for future efforts to keep all stakeholders informed.
- 51) There should be clear rules established regarding (i) the receipt and retention of information that is provided during a PCRCP process, (ii) confidentiality and its exceptions, (iii) when the general public may be informed of the final outcome of a particular complaint and the details, if any, etc. that may be thus disclosed.