

1 GENERAL GOVERNMENT CABINET

2 BOARD OF INTERPRETERS FOR THE DEAF AND HARD OF HEARING

3 (Amendment)

4 201 KAR 39:100. Complaint procedure.

5 RELATES TO: KRS 309.304(7), 309.316, 309.318

6 STATUTORY AUTHORITY: KRS 309.304(3), 309.316(2)

7 NECESSITY, FUNCTION, AND CONFORMITY:

8 KRS 309.316(2) authorizes the board to establish procedures for receiving and investigating
9 complaints. KRS 309.318 delineates the causes for which disciplinary action may be taken against
10 a licensee. This administrative regulation establishes procedures for the filing, evaluation, and
11 disposition of administrative complaints.

12 Section 1. Receipt of Complaints.

13 (1) A complaint:

14 (a) May be submitted by an:

15 1. Individual;

16 2. Organization; or

17 3. Entity.

18 (b) Shall:

19 1. Be in writing or contained on a videotape or digital media; and

20 2. Include the signature or stated name, address, and telephone or videophone number

21 of the person submitting the complaint; and

1 (c) May be filed by the board or board member based upon information in its
2 possession.

3 (2) Upon receipt of the complaint a copy of the complaint shall be sent to the licensee named
4 in the complaint along with a request for the licensee's response to the complaint. The individual
5 shall be allowed a period of twenty (20) days from the date of receipt to submit a written,
6 videotaped, or other digital media response.

7 Section 2. Initial Review.

8 (1) After the receipt of a complaint and the expiration of the period for the licensee's response,
9 ~~[the case manager or]~~ the complaint screening committee shall consider the complaint, the
10 licensee's response, and any other relevant material available and make a recommendation to the
11 board. The board shall determine whether there is enough evidence to warrant a formal
12 investigation of the complaint.

13 (2) If the board determines before formal investigation that a complaint is without merit, it
14 shall:

15 (a) Dismiss the complaint; and

16 (b) Notify the complainant and licensee of the board's decision.

17 (3) If the board determines that a complaint warrants a formal investigation, it shall:

18 (a) Authorize an investigation into the matter; and

19 (b) Order a report to be made to the ~~[case manager or the]~~ complaint screening committee
20 at the earliest opportunity.

21 Section 3. Results of Formal Investigation; Board Decision on Hearing.

22 (1) Upon completion of the formal investigation, the investigator shall submit a written report
23 to ~~[the case manager or]~~ the complaint screening committee of the facts regarding the complaint.

1 The [~~case manager or the~~] complaint screening committee shall review the investigative report and
2 make a recommendation to the board. The board shall determine whether there has been a prima
3 facie violation of KRS 309.300 to 309.319 or the administrative regulations promulgated
4 thereunder and if a formal complaint should be filed.

5 (2) If the board determines that a complaint does not warrant issuance of a formal complaint,
6 it shall:

7 (a) Dismiss the complaint; and

8 (b) Notify the complainant and respondent of the board's decision.

9 (3) If the board determines that a violation has occurred but is not serious, the board may issue
10 a written admonishment to the licensee in accordance with KRS 309.316(4).

11 (4) If the board determines that a complaint warrants the issuance of a formal complaint
12 against a respondent, the board attorney in conjunction with [~~the case manager or~~] the complaint
13 screening committee shall prepare a formal complaint which states clearly the charge or charges
14 to be considered at the hearing. The formal complaint shall be reviewed by the board and, if
15 approved, signed by the chairman and served upon the individual as required by KRS Chapter
16 13B.

17 (5) If the board determines that a person may be in violation of KRS 309.301(1), it shall:

18 (a) Order the individual to cease and desist from further violations of KRS 309.301(1);

19 (b) Forward information to the county attorney of the county of residence of the person
20 allegedly violating KRS 309.301(1) with a request that appropriate action be taken under
21 KRS 309.319; or

22 (c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of
23 KRS 309.301(1) pursuant to KRS 309.304(7).

1 Section 4. Settlement by Informal Proceedings.

2 (1) The board through counsel and ~~[the case manager or]~~ the complaint screening committee
3 may, at any time during this process, enter into informal proceedings with the individual who is
4 the subject of the complaint for the purpose of appropriately dispensing with the matter.

5 (2) An agreed order or settlement reached through this process shall be approved by the board
6 and signed by the individual who is the subject of the complaint and the chair~~[man]~~.

7 (3) The board may employ mediation as a method of resolving the matter informally.

8 Section 5. Notice and Service of Process. A notice required by KRS 309.300 to 309.319 or this
9 administrative regulation shall be issued pursuant to KRS Chapter 13B.

10 Section 6. Notification. The board shall make public:

11 (1) Its final order in a disciplinary action under KRS 309.316(3); and

12 (2) An action to restrain or enjoin a violation of KRS 309.301(1).

13 Section 7. Incorporation by Reference.

14 (1) "Complaint Form", DPL-KBI-009, April 2024, [2011], is incorporated by reference.

15 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
16 the Department of Professional Licensing, 500 Mero Street, [Division of Occupations and
17 Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to
18 4:30 p.m. and found on the board's website at www.kbi.ky.gov.

201 KAR 39:100

APPROVED BY AGENCY:

A handwritten signature in black ink, appearing to read 'Marva Johnson', written over a horizontal line.

Marva Johnson

Chair, Board of Interpreters for the Deaf and Hard of Hearing

Date: June 12, 2024

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on August 27, 2024, at 11:00 AM, at the Mayo-Underwood Building, Room 127CW, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be canceled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person by using the PPC public comment portal at the address listed below.

CONTACT PERSON:

Name: Sara Boswell Janes

Title: Staff Attorney III

Agency: Department of Professional Licensing, Office of Legal Services

Address: 500 Mero Street, 2 NC WK#2

Phone Number: (502) 782-2709 (office)

Fax: (502) 564-4818

Email: Sara.Janes@ky.gov

Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 39:100

Contact Person: Sara Boswell Janes

Phone Number: (502) 782-5245 (office)

Email: sara.janes@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This regulation creates the procedure for filing a disciplinary complaint with the Board and sets the disciplinary process utilized by the Board.
- (b) The necessity of this administrative regulation: This regulation creates the procedure for filing a disciplinary complaint with the Board and sets the disciplinary process utilized by the Board.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations generally.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation creates the procedure for filing a disciplinary complaint with the Board and sets the disciplinary process utilized by the Board.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: This amendment clarifies existing procedures and requirements and increases transparency of Board actions.
- (b) The necessity of the amendment to this administrative regulation: This amendment clarifies existing procedures and requirements and increases transparency of Board actions.
- (c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations generally related to the practice of interpreting.
- (d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies existing procedures and requirements and increases transparency of Board actions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are 533 full and 45 temporarily licensed interpreters.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Aggrieved parties or members of the public will submit complaints in the same way that those complaints have been submitted.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The board does not anticipate any cost to the applicants affected by the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):
The profession will be stronger through the discipline of bad actors.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: It will not cost the administrative body any additional funds to implement this administrative regulation.

(b) On a continuing basis: It will not cost the administrative body any additional funds to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation change.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not): This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL IMPACT STATEMENT

Regulation No. 201 KAR 39:100

Contact Person: Sara Boswell Janes

Phone Number: (502) 782-2709 (office)

Email: sara.janes@ky.gov

1. Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.304, KRS 309.312.

2. Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Interpreters for the Deaf and Hard of Hearing is an administrative body created by KRS 309.302 and the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: Unknown.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): There are no other regulated entities not otherwise listed.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact to this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources was a review of the existing budget by the board's fiscal administrator as well as consideration of the amendment and whether staff time and costs will be increased.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate). This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources was a review of the existing budget by the board's fiscal administrator as well as consideration of the amendment and whether staff time and costs will be increased.

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

201 KAR 39:100

"Complaint Form", 2011, consisting of four (4) pages, is the form required to be used by for making a complaint against a licensee. This form is incorporated by reference.

SUMMARY OF CHANGES TO MATERIALS INCORPORATED BY REFERENCE

201 KAR 39:100

The "Complaint Form", DPL-KBI-009, April 2024, consisting of four (4) pages, has been revised to update the language in the instructions and release to be consistent with current law, and the format has been updated to include a form number and citations.

DATE RECEIVED: _____
COMPLAINT NO.: _____

Commonwealth of Kentucky
Board of Interpreters for the
Deaf and Hard of Hearing
P.O. Box 1360
Frankfort, KY 40602
Ph: 502-892-4252
Fax: 502-564-4818
KBI@ky.gov



COMPLAINT FORM

DPL-KBI- 09
Rev. April 2024
Page 1 of 4

KRS 309.304(6) & 309.316
201 KAR 39:100

NOTE: This form should be completed and mailed to the address above. Please read the instructions (located on Page 3) carefully before describing your complaint.

Are you deaf or hard of hearing and would like to request a reasonable accommodation for the submission of a complaint? If yes, please complete Section 1 and Section 2 as well as sign the affidavit at the end. Once we receive the complaint, the Board Administrator will contact you to set this up.	<input type="checkbox"/> YES <input type="checkbox"/> NO
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SECTION 1- Information About You (TYPE OR PRINT ALL INFORMATION)

<u>Last Name</u>	<u>First Name</u>	<u>Middle Name</u>
<u>Mailing Address</u>		
<u>Street or P.O. Box:</u>		
<u>City:</u>	<u>State:</u>	<u>Zip:</u>
<u>County:</u>		
<u>Email</u>	<u>Phone Number (including Area Code)</u>	

SECTION 2- **Information on The Person(s) You Are Complaining About**

<u>Last Name</u>	<u>First Name</u>	<u>Middle Name</u>	<u>Profession/License Number</u>
<u>Mailing Address</u>			
<u>Street or P.O. Box:</u>			
<u>City:</u>	<u>State:</u>	<u>Zip:</u>	<u>County:</u>
<u>Telephone Numbers (including area code)</u>		<u>Place Incidents(s) Occurred</u>	
<u>Cell:</u>	<u>Home:</u>		

SECTION 3- Complaint Details

DATE RECEIVED: _____, 2024

COMPLAINT NO.: _____

Describe your complaint here. Be specific. (What happened? When? Where?) Use additional sheets if necessary. Please read the instructions carefully before describing your complaint.

To the best of my knowledge, the information in this complaint is true and complete.

Signature: _____ Date: _____

DATE RECEIVED: _____, 2024

COMPLAINT NO.: _____

INSTRUCTIONS FOR COMPLETING THE COMPLAINT FORM

To make a complaint about misconduct or other interpreting services provided by an individual licensed by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing (the "Board"), or about interpreting services provided illegally by an unlicensed person, complete the COMPLAINT Form above and send it to the Board at the address listed at the top of the form. Please note that we do not have authority to investigate costs for services that you believe are too high or to intervene in fee disputes. However, we are authorized to investigate complaints involving fraudulent billing.

Type or print clearly in black ink. Describe your complaint as completely as you can. If you do not have an email address and/or a daytime telephone number, please provide a number where a message can be left for you during the day. If you have any papers or other evidence that may support your complaint, such as billing invoices or correspondence, please attach copies. **Do not send originals.** If you have physical evidence, you need to retain that evidence in its original condition.

Be sure to sign and date your complaint. When your complaint is received, a copy, along with a letter from the Board requesting a response to the complaint, will be sent to the interpreter. When the response is received, the matter will be taken to the Board at its next regular meeting.

Also, you must complete the AUTHORIZATION form below by entering your name and the name of the interpreter and/or organization in the appropriate spaces. The Authorization directs the professional, organization, or facility, if any, to release information about the services rendered to you. **Sign and date the Authorization, and have it signed and dated by a witness.** A witness can be any person 18 years or older. The Authorization does not have to be notarized. A completed Authorization assists with the investigation of your complaint in a timely fashion. If you do not wish to provide the Authorization, you may leave it blank. However, failure to provide the Authorization may result in a delay of the investigation.

DATE RECEIVED: _____, 2024

COMPLAINT NO.: _____

Authorization for Release of Medical and Business Records to the Kentucky Board of Interpreters for the Deaf and Hard of Hearing

I, _____, the undersigned, do hereby authorize the full
(*print name here*)

release of any and all medical and psychological records, billing information, and medical

and business reports from _____, Licensed/Certified
Interpreter for the Deaf and Hard of Hearing, and/or any other licensed professional or
practitioner, and the named interpreter, organization or facility and/or any organization of
facility, to disclose fully to the Kentucky Board of Interpreters for the Deaf and Hard of Hearing
(the "Board") and its authorized representatives all information and records. I understand that
the above records may be used by the Board in the investigation and possible disciplinary
prosecution against a licensed interpreter. I further understand that the Board will make
reasonable efforts to protect the confidentiality of my records under KRS Chapter 61 and KRS
Chapter 13B, or other applicable law.

A photocopy of this authorization shall be deemed effective as an original.

This authorization shall be effective for one year from the date of signing.

Signature of client, or parent/legal guardian if
client is under 18 years of age.

Date

Witness (must be 18 years of age or older)

Date

DATE _____

COMPLAINT NO. _____

**Kentucky Board of Interpreters for the
Deaf and Hard of Hearing**

PO Box 1360

Frankfort, KY 40602

(502) 564-4252 Fax: (502) 564-4252

<http://kbi.ky.gov>

10/2017

COMPLAINT FORM

This form should be completed and returned to the address above. Videotape
may accompany this form.

INFORMATION ABOUT YOU

Name _____

Address _____

City _____ State _____ County _____

Telephone: Day (____) _____ Evening (____) _____

INFORMATION ON THE PERSON(S) YOU ARE COMPLAINTING ABOUT

Name _____

Profession _____ Telephone (____) _____

Place where occurred _____

Address _____

City _____ State _____ Zip _____ County _____

Describe your complaint here. Be specific. What happened? When? Where? Use black
ink or type. Use additional sheets if necessary. Please read instructions carefully
before describing your complaint.

To the best of my knowledge, the information in this complaint is true and complete.
Check here if you have included all relevant sheets: ☐

Signature

The above was signed and attested to be true and complete before me this ____ day of
_____, 20__

Signature of Notary Public _____ Date _____

() Affix Seal

WARRANT TO REMAIN AND

_____(My name) I request to remain anonymous during the investigation and review of my complaint. I understand that even though my name and contact information will be removed from the public copies of the complaint, I may be asked to submit to a hearing with the board investigators and I shall be required to participate in any final board hearing for the individual(s) or organization involved in my complaint. I understand that, pursuant to the Kentucky Code of Ethics, the public will receive a copy of my complaint after a final decision has been made by the board.

INSTRUCTIONS FOR COMPLETING THE COMPLAINT FORM

To complain, you must be a professional licensed to practice by the Board of Kentucky, or you must be a person who has been harmed by the practice of a profession by an unlicensed person. Complete the COMPLAINT form and send it to the Board at the address on the back of the form. Please note that the Board does not have authority to investigate complaints that involve disputes that are too high or too complex. However, we can investigate complaints involving fraudulent practices.

Please note: complaints concerning interpreters should be made to the Kentucky Board of Interpreters for the Deaf and Hard of Hearing, P.O. Box 1360, Frankfort, Kentucky 40602.

Type or print clearly in black ink. Complete the form completely as you can. If you do not have a daytime telephone, you can provide a number where a message can be left for you. Attach any papers which may support your complaint, such as bills or receipts. Please attach copies. Do not send originals. If you have physical evidence, you are encouraged to retain that evidence in its original condition.

Be sure to sign and date your complaint. When your complaint is received, a copy, along with a letter from the Board regarding the complaint, will be sent to the interpreter. When the response is received, it will be taken to the Board at its next regular meeting.

Also, complete the AUTHORIZATION. Have the professional sign the name and the name of the interpreter and/or organization. The Authorization directs the professional, organization, or facility to release information about the services rendered to you. Sign and date the authorization, and have it signed by a witness. A witness can be 18 years or older. The authorization does not have to be notarized. The authorization helps us investigate your complaint in a timely manner. If you cannot complete the Authorization, leave it blank. However, this may delay the investigation.

**Authorization for Release of Medical and Business Records to the
Kentucky Board of Interpreters for the Deaf and Hard of Hearing**

I, _____, the undersigned, authorize the
full (print name) _____
release of any and all medical, psychological records, information, and medical
and business reports from _____, Licensed/Certified
Interpreter for the Deaf and Hard of Hearing, a licensed professional or
practitioner, and the named interpreter, community and/or any organization of
facility, to disclose fully to the Kentucky Board of Interpreters for the Deaf and Hard of
Hearing (Board) and its authorized representatives information and records. I understand
that the above records may be used for investigation and possible
disciplinary prosecution against a practitioner. I understand that the Board will
make reasonable efforts to protect the records under KRS Chapter 61
and KRS Chapter 13B, or other applicable law.

A photocopy of this authorization will be deemed as good as the original.

This authorization is effective for one year from the

Date

Signature of client, or parent/guardian if
client is under 18 years of age

Witness (Optional)