

# NCRA Code of Professional Ethics for CART and Broadcast Captioners

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## **Preamble**

The mandatory Code of Professional Ethics defines the ethical relationship the public has a right to expect from a Member. The Code sets out the conduct of the Member when dealing with the Consumer and/or Client of CART (Communication Access Realtime Translation) and broadcast captioning services and acquaints the Consumer and/or Client, as well as the Member, with guidelines established for professional behavior.

The Guidelines for Professional Practice, on the other hand, are goals that every Member should strive to attain and maintain. Members are urged to comply with the guidelines and must adhere to local, state, and federal rules and statutes. It should be noted that these guidelines do not exhaust the moral and ethical considerations with which the Member should conform but provide the framework for the practice of CART and broadcast captioning. Not every situation a Member may encounter can be foreseen, but a Member should always adhere to fundamental ethical principles.

By complying with the Code of Professional Ethics and Guidelines for Professional Practice, Members maintain their profession at the highest level.

## **Code of Professional Ethics**

A Member Shall:

1. Determine fees independently, except when established by statute or court order, entering into no unlawful agreements with other captioners on the fees to any Client.
2. Be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the Member shall disclose that conflict or potential conflict.
3. Guard against not only the fact but the appearance of impropriety.
4. Preserve the confidentiality and ensure the security of information, oral or written, entrusted to the Member.
5. Be truthful and accurate when making public statements or when advertising the Member's qualifications or the services provided.
6. Maintain the integrity of the CART and broadcast captioning profession.
7. Abide by the NCRA Constitution & Bylaws.
8. Keep abreast of current literature, technological advances and developments, and participate in continuing education programs.

9. Assist in improving the CART and broadcast captioning profession by participating in national, state, and local association activities that advance the quality and standards of the CART and broadcast captioning profession.
10. As part of the CART and broadcast captioning profession's commitment to the principle that quality CART and broadcast captioning services should be available to all, members are encouraged to provide pro bono services to increase accessibility. Such participation should be in accordance with the basic tenets of the profession: impartiality, competence, and integrity.

## **COPE – General Guidelines**

### **Section I: CART Captioner**

Definitions:

The CART captioner produces accurate, simultaneous translation and display while using computer-aided translation software to faithfully communicate the integrity of the message. This reasonable accommodation is recognized in the Americans with Disabilities Act.

- Remote: when the CART captioner and the Consumer(s) are in separate locations.
- Onsite: when both the CART captioner and the Consumer(s) are located in the same common area
- Client: the individual or entity contracting for captioning services
- Consumer(s): the end user(s) of captioning services.

In providing CART captioning services, a Member shall:

1. Accept assignments using discretion with regard to skill, setting, and the Consumers involved, and accurately represent the provider's qualifications for CART captioning.
2. Establish a clear understanding with both the Client and the Consumer of:
  - a. who is hiring the CART Captioner;
  - b. whether an electronic file will be provided and the disposition of the electronic file. (Noted in each setting below. See note below about copyright laws.)
3. Acquire, when possible, information or materials in advance to prepare a job dictionary.
4. Know the software and hardware system used and be able to do simple troubleshooting.

5. Cooperate with all parties to ensure that effective communication is taking place. Be aware of the diversity of Consumers requesting captioning services, and be prepared to meet their various requests in a respectful manner.
6. Include in the realtime display the identification, content, and spirit of the speaker, as well as environmental sounds.
7. Refrain from counseling, advising, or interjecting personal opinions except as required to accomplish the task at hand. The CART captioner should remove him or herself from an assignment when the CART captioner believes his or her abilities are inadequate, recommending or assigning another captioner only if that CART captioner has the qualifications required for such assignment.
8. Prevent the display from being visible to others in a confidential setting (i.e., legal discussions, jury deliberations, attorney/client discussions, medical discussions, support groups).
9. Preserve and respect the privacy of a Consumer's personal information. Confidentiality and discretion are required of the CART captioner at all times. A casual word, action, or social media post may betray a Consumer's confidence or violate a Client's or Consumer's privacy. Exceptions to confidentiality include, for example, federal and state laws requiring mandatory reporting of abuse or threats of suicide or responding to subpoenas.
10. Familiarize oneself with the provisions of [NCRA's Guidelines for CART Captioners](#), "[The CART Provider's Manual](#)," [the General Guidelines for Professional Practice](#), [NCRF's "CART in the Courtroom,"](#) and any updates thereto.

## **SETTINGS:**

**EDUCATIONAL:** (See note below regarding Fair Use Doctrine when captioning videos)

### **K-12:**

#### **ONSITE:**

1. Understand the reading comprehension limitations of Consumer(s).
2. Faithfully, completely, and accurately provide communication access with verbatim as the goal.
3. Ensure CART captioning is an appropriate accommodation for learning /reading comprehension levels of Consumer(s).
4. Do not help with homework, guide answers, or provide supplies.
5. Do not take on the role of parent, advocate, or mentor.
6. Maintain confidentiality of Consumer(s) when providing a file.

7. Clarify who gives direction: Consumer or school employee (teacher, administrator, hearing itinerant teacher).
8. Retain file for a minimum of three months, whether onsite or remote.

REMOTE (including guidelines 1 through 8 above):

1. Work with the educational team to ensure that remote CART captioning services are an effective accommodation given the student's age, abilities, maturity level, and the expectations of parents/guardians and the educational institution.
2. Notify the educational team if remote CART is not an effective accommodation.

**POST-SECONDARY:** (See note below regarding Fair Use Doctrine when captioning videos)

ONSITE:

1. Notify the Client if CART captioning does not appear to be an effective accommodation for the Consumer.
2. Faithfully, completely, and accurately provide communication access with verbatim as the goal.
3. Do not help with homework, guide answers, or provide supplies.
4. Do not take on the role of parent, advocate, or mentor.
5. Do not discuss the Consumer, the Consumer's hearing loss, absences, progress in class, or any such matters with instructor(s), aides, or other students.
6. Accommodate to the extent possible the Consumer's preferences, which may include: interruptions for clarification, introductions, interactions with other students, and seating preference.
7. Do not provide a file to anyone without approval from the Client; this may include the Consumer.
8. Retain file for a minimum of three months, whether onsite or remote.
9. Stay in role and preserve professional decorum.

REMOTE: (Including guidelines 1 through 9 above)

1. Clearly and promptly report audio issues to the Client and so indicate in the CART captioning text for the benefit of the Consumer unless otherwise instructed.

## **LEGAL:**

A legal setting is judicial or quasi-judicial and may include but not be limited to a courtroom, hearing room, jury room, deposition, jail, police station, field stop, arbitration, or mediation.

1. Refrain from working in the dual capacity of official reporter of proceedings and CART captioner at the same time. When no other option exists, the role to be performed is that of the official reporter of proceedings, and all present are entitled to read the display screen of the official reporter, which does not include the content and spirit of the speaker, as well as environmental sounds, that would normally be provided by the CART captioner. Disclosure must be made to the court and all parties, including the person requiring interpretive services, of this limitation with a statement to be made on the record.
2. All conversations with Consumer will be CART captioned.
3. Avoid using the Consumer's name and comments.
4. The sworn CART captioner will faithfully communicate the spoken word to the best of his or her ability.
5. No file is to be provided unless by order of the Court.
6. If the Consumer is a juror, the CART captioner will attend all deliberations.
7. As any other officer of the court, if the CART captioner has information that affects the proceedings or outcome of the case, he or she is required to report that information to the Court. However, all proceedings in jury deliberations are strictly confidential.

#### **MEDICAL:**

A medical setting may include but not be limited to a doctor visit, hospital stay, dentist appointment, therapy session, et cetera, and is governed by the Health Insurance Portability and Accountability Act (HIPAA) and/or applicable privacy laws.

1. Understand and strictly adhere to HIPAA and/or applicable privacy laws.
2. Avoid using the Consumer's name and comments.
3. No file is to be provided unless by order of the Court.

#### **GENERAL MEETINGS:**

1. Perform due diligence to adequately prepare for the assignment.
2. Never participate in the event unless requested.
3. Ensure file is handled per agreement.

#### **PERFORMANCE/THEATER:**

A performance CART captioning setting is any venue that involves the live performing arts including but not limited to plays, musical entertainment (opera, concerts, et cetera), and personal performances.

1. Adhere to copyright laws in dealing with obtaining and providing scripts, lyrics, and performers' material.

#### **NOTE REGARDING FAIR USE DOCTRINE AND COPYRIGHT ACT:**

The application of copyright laws to CART captioning is not clearly defined and may depend upon the setting. In most situations, the Fair Use Doctrine under the U.S. Copyright Act (17 U.S.C. § 107) should apply to CART captioning, which allows for limited copying and use of otherwise copyrighted material if the fair use factors are met. The strongest fair use protection should be available in the educational setting, where the captioning and any files are provided as an accommodation under the Americans with Disabilities Act. Application of the Fair Use Doctrine is less certain in other settings, such as live performance/theater, due to the complex application of copyright laws to those forms of intellectual property. The greatest exposure to a copyright infringement claim is likely to be if a CART captioning file is distributed by the Consumer without permission, such as sharing or posting it on blogs, websites, YouTube, social media, et cetera.

It therefore is advisable to enter into a written agreement with the Client and set forth the scope of the CART services to be provided, including whether a file should be provided to the Consumer as part of the accommodation. Ideally, this agreement should state that the CART captioner is legally authorized to perform the requested services and include an appropriate indemnification provision to protect the CART captioner from any claims arising from providing the CART captioning services. In those cases where a file is provided, it is further advisable to seek the Consumer's written agreement that the file is only for personal use consistent with the ADA, and the file will not be otherwise shared, duplicated, or distributed. Finally, consideration should be given to adding an appropriate disclaimer when captioning video that is provided as a file (indicating that a single copy of the video is being captioned for the personal use of the Consumer as an accommodation under the ADA).

#### **Section II: Broadcast Captioner**

The broadcast captioner produces accurate, simultaneous translation and display via the video signal of spoken words while using captioning computer-aided translation software. Common sense and professional courtesy should guide the Member in applying the following guidelines.

In providing broadcast captioning services, a Member shall:

1. Accept assignments using discretion with regard to skill, technical capability, and setting, and accurately represent the provider's qualifications for broadcast captioning. Assign employees/contractors using the same guidelines. The

broadcast captioner should remove him or herself from an assignment when the broadcast captioner believes his or her abilities are inadequate, recommending or assigning another captioner only if that broadcast captioner has the qualifications required for such assignment.

2. Understand and adhere to [NCRA's Realtime Broadcast Captioning: Recommended Style and Format Guidelines for U.S. Programming, NCRA's Captioning Matters: Best Practices, FCC Captioning Quality Report and Order, Declaratory Ruling, and Request for Further Notice of Proposed Rulemaking](#), the NCRA Code of Professional Ethics for CART and Broadcast Captioners, and any updates thereto.
3. Acquire information or materials in advance to prepare a job dictionary.
4. Know the software and hardware system used and be able to do simple troubleshooting.
5. Maintain the confidentiality of employers' and Clients' proprietary information (i.e., client names, show names, rates, contract expiration dates, et cetera).
6. Abide by employers'/Clients' equipment requirements.
7. Provide a transcript of the broadcast only if permission is granted by the hiring party.