

Ethical Decision Making:

Understanding the legislation, laws, codes and policies that affect the work, as well as the roles and responsibilities of Registered Sign Language Interpreters at VCC

Interpreting Services
Vancouver Community College

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Introduction

When making ethical decisions, Registered Sign Language Interpreters (RSLIs) employed by Vancouver Community College (VCC) are working with multiple codes and policies while at the same time working under federal and provincial law. At times, these appear to conflict with each other. RSLIs have long struggled with how to incorporate this aspect into their ethical decision making process. This document will not provide definitive answers to all the dilemmas an RSLI will face, but it will assist in the process by doing the following: outlining the context for the creation of this document; providing an overview of relevant laws, codes and policies and their hierarchical relationship; offering a working example of where these laws, codes and policies conflict; and detailing the roles and responsibilities of an RSLI employed by VCC.

Context

The ability to articulate the legislation, laws, codes and policies RSLIs work under as one part of decision making serves two main purposes. The first is to facilitate transparency in managing the expectations of the individuals RSLIs work with. Interpreting Services provides Deaf students with a letter of understanding that outlines the different laws, codes and policies within which RSLIs work. Sharing professional practices with stakeholders is essential as it mitigates the RSLI being left with an “excessive, often unwanted, degree of power” (Dean, R. & Pollard, R. Q., 2005 p.260). Interpreting Services seeks to empower users and providers of interpretation and to promote the “equitable distribution of power that is so important to cross-cultural communication” (Dean, R. & Pollard, R. Q., 2005 p. 269). As part of the intake process, students are provided with a Letter of Information (see Appendix A).

The second purpose is to assist interpreters with language and knowledge to articulate and document this aspect of their decisions. As outlined further in Roles and Responsibilities, VCC asks that RSLIs document their ethical decision making. The form used (see Appendix B) was created in consultation with VCC’s Privacy Officer, and is in accordance with BC’s Freedom of Information and Protection of Privacy Act (FOIPPA).

This exploration of legislation, laws, codes and policies is intended to provide insight into *one* part of the complex context that RSLIs consider when making ethical decisions at VCC. In addition to all of these, interpreting is a practice profession; meaning that the ethical decision making process needs to take into consideration the dynamic context of the situation. Hence, ethical decisions for interpreters need to be teleological¹ in nature, rather than rule based (Dean & Pollard, 2011). There are no overriding rules that can be formulated to direct RSLIs on how to proceed in any given situation. Cokely (2000) states that the “unquestioning obedience to a set of precepts, principles, laws, or rules developed by someone else or by some committee is the very antithesis of ethics” (p. 28). Furthermore, it is understood that there is “an acceptable range of ‘ethical and effective’ decisions” that can be made in a given situation (Dean, Pollard 2011 p.164).

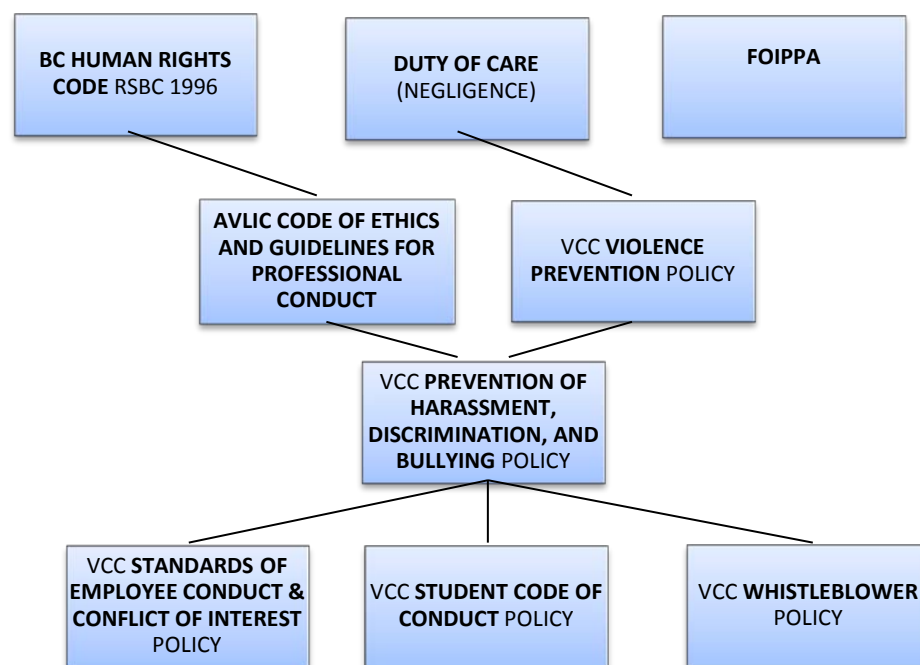
¹ **Teleological ethics:** [...] theory of morality that derives duty or moral obligation from what is good or desirable as an end to be achieved. Also known as consequentialist ethics, it is opposed to deontological ethics (from the Greek *deon*, “duty”), which holds that the basic standards for an action’s being morally right are independent of the good or evil generated” (Teleological Ethics, 2013)

Overview of the legislation, laws, codes and policies and their hierarchical relationship

When working at VCC, RSLIs are held accountable to numerous pieces of legislation, laws, codes and policies which affect their work. The BC Human Rights Code and Duty to Care supersedes both AVLIC's Code of Ethics and Guidelines for Professional Conduct as well as VCC's policies. In general, codes of ethics supersede policies. The VCC Violence Prevention Policy is an example of an exception. Below is a schematic overview of how they relate to each other followed by a further explanation of relevant publications.²

Hierarchical Diagram of Legislation, Codes and Policies

(Marks, 2013)



² This is a working document intended for use by RSLIs working at VCC. RSLIs, depending on their background and experience, will have various levels of knowledge and understanding of the various legislation codes and policies. Some pieces of legislation, codes and policies have explanations included for clarification.

Relevant Legislation, Codes and Policies

BC Human Rights Code

“In BC, it is against the law to harass a person because of their race, colour, ancestry, place of origin, religion, marital or family status, sex, sexual orientation, disability or age” (BC Ministry of Attorney General, 2008). These are called protected grounds.

When considering the situation where a number of codes are in place, the BC Human Rights Code (2013) stipulates that, “If there is a conflict between this Code and any other enactment, this Code prevails” (Code Prevails, section 4). BC Human Rights is “considered quasi-constitutional and takes precedence over, and often influences, other pieces of legislation” (The BC Human Rights Coalition, Overview section, para.1).

Duty of Care

Duty of Care is a criminal/civil legal concept used by judges and courts to determine if there has been negligence (Canadian Criminal Law/Duty of Care, 2013). As employees of the College, RSLIs are expected to prevent physical and emotional harm to self and others as well as damage to health and property. A person could be considered negligent if they are not doing what a reasonable person acting under similar circumstances would do (Reasonable Person, 2013).

Duty of Care supersedes codes of ethics and policies.

Freedom of Information and Protection of Privacy Act (FOIPPA)

As a public institution in BC, VCC falls under FOIPPA. FOIPPA gives individuals the right to request access to records at VCC and outlines the obligations of employees in regards to the protection of personal information at VCC.

The AVLIC Code of Ethics and Guidelines for Professional Conduct (2000)

In general codes supersede policies, however AVLIC’s Code of Ethics and Guidelines for Professional Conduct allows for other codes of conduct to be taken into consideration when making decisions:

- 1.1.3 Members need to be aware that other professional codes of conduct may impact upon their work. In such circumstances, members will make

appropriate professional decisions and conduct themselves in a manner befitting the setting and the profession (p.2).

VCC Violence Prevention Program

Codes of ethics supersede policies. One exception is the VCC Violence Prevention Policy which outlines expectations of VCC employees when there is a direct threat to their personal safety. The Violence Prevention Policy is closely linked to Duty of Care, thus ranking it higher than other VCC policies (Marks, 2013).

VCC Prevention of Harassment, Discrimination and Bullying Policy

This policy is related to the BC Human Rights Code. In the hierarchical diagram shown earlier, it falls below AVLIC's Code of Ethics and Guidelines for Professional Conduct due to the fact that it is a policy, yet it supersedes the other policies since its principles are closely related to the BC Human Rights Code (Marks, 2013).

VCC Standards of Employee Conduct and Conflict of Interest Policy (2012)

On April 4, 2013, VCC's Code of Ethics was replaced by the VCC Standards of Employee Conduct and Conflict of Interest Policy. This policy allows for employees to also defer to their professional codes or standards of practice and licensure:

- (1) As a public institution VCC expects all its employees to comply with the standards set out in this Policy, in addition to any other applicable professional standards, code of ethics, or standards of practice and licensure. Employees are expected to refer to this Policy and Procedure A.3.6 for guidance on appropriate conduct. (p.2)

Both AVLIC's Code of Ethics & Guidelines for Professional Conduct and the VCC Standards of Employee Conduct and Conflict of Interest Policy allow for other codes to be taken into consideration. This means that even though a code supersedes a policy, they both allow for deference to the other one.

Standards of Student Conduct Policy (2007)

This policy outlines how employees of the College are expected to act in relation to student conduct issues.

Whistleblower Policy (2013)

This policy outlines how College employees are expected to report suspected wrongdoing without facing retaliation when reporting in good faith.

Potential conflict with relevant policies, codes, and legislation

Below is an example of where conflicts may arise between legislation, law, codes and policies. It must be reiterated that each ethical dilemma is highly context-based and no two decisions can be identical. The example below is limited to highlighting the legislation, codes and policies as an example of how they relate to one other in a hierarchical fashion.

Example: Harassment in the Classroom

An RSLI is working in a classroom and is experiencing harassment. A student or VCC employee is making jokes based on sexual orientation and racial stereotyping. The jokes are not being directed at the RSLI, and no one in the group is protesting. The following legislation, codes and policies address this issue and are listed in hierarchical order.

The BC Human Rights Code as interpreted by the Ministry of Attorney General (2008) highlights three competing rights that apply in this situation. The rights below are listed in no particular order.

1. The RSLI has the right to work in a harassment free environment and has a responsibility to protect him/her self. Even though the comments are not directed towards the RSLI, the environment is still one that contains harassment.
2. Disability is a protected ground. The RSLI is present as an accommodation and there is a duty to provide service.
3. There is a responsibility, as a service provider in a public institution, to provide a harassment free environment.

The AVLIC Code of Ethics and Guidelines for Professional Conduct (2000) states:

- 1.1.1 Members will respect the privacy of consumers and hold in confidence all information obtained in the course of professional service. Members may be released from this obligation only with their consumer's authorization or when ordered by law (p.2).
- 1.1.3 Members need to be aware that other professional codes of conduct may impact upon their work. In such circumstances, members will make appropriate professional decisions and conduct themselves in a manner befitting the setting and the profession (p.2).
- 1.3.1 Members will refrain from using their professional role to perform other functions that lie beyond the scope of an interpreting assignment and the

parameters of their professional duties. They will not counsel, advise or interject personal opinions (p.2).

- 4.2.1 Members shall remain neutral, impartial and objective. They will refrain from altering a message for political, religious, moral, or philosophical reasons, or any other biased or subjective consideration (p.5).

VCC Standards of Employee Conduct and Conflict of Interest Policy (2013)

- Content and Purpose

Vancouver Community College (VCC) expects all employees of the College to adhere to the highest standards of conduct, ethics and professionalism, in accordance with VCC's Policies and Procedures, and local, provincial and federal legislation. In addition, employees are expected to instil public confidence, exhibit a commitment to excellence in learning and teaching, and demonstrate consideration for the dignity, respect, and well-being of all College members and the broader society in which all exist.

College members are expected to report employee misconduct and conflicts of interest to the Senior Administrator without delay, using the protocols contained in Procedure A.3.6. (p.1)

- Statement of Principles

(1) As a public institution VCC expects all its employees to comply with the standards set out in this Policy, in addition to any other applicable professional standards, code of ethics, or standards of practice and licensure. Employees are expected to refer to this Policy and Procedure A.3.6 for guidance on appropriate conduct (p.2)

(4) College members, who knowingly observe or encounter conduct in contravention of this Policy, are expected to report it without delay (p.2)

- Scope and Limits

Where the conduct is alleged to be harassment, discrimination, or bullying, the policy Prevention of Harassment, Discrimination and Bullying will apply (A.3.1): as may respective collective agreements (p.1)

VCC Prevention of Harassment, Discrimination, and Bullying Policy (2013) states:

- (3) It is the College's policy that Discrimination, Harassment, and Bullying will not be tolerated. College members who violate this Policy may be subject to a range of corrective measures, up to and including expulsion or dismissal from the College (p.2).

VCC Standards of Student Conduct Policy (2007) states:

- College employees have the responsibility to report significant incidents of infractions to their supervisor or the Dean of the area (p.2).
- For major or repeated infractions such as but not limited To- (see appendix A)
 - uttering racist remarks (p.2)

The VCC Standards of Student Conduct Policy (2007) does not make any references to allowing College employees to take into consideration other professional codes. Since this is a policy, it is superseded by both the BC Human Rights Code and AVLIC's Code of Ethics and Guidelines for Professional Conduct. At the same time, AVLIC's Code of Ethics allows RSLIs to take into consideration other professional codes of conduct.

Roles and Responsibilities

As practice professionals, RSLIs must take all relevant legislation, codes and policies into consideration, as well as the unique context of the situation in order to make optimal decisions. Each situation presents a range of ethical and effective actions. As shown in the example above, the legislation, codes and policies do not necessarily provide an easy answer. Factors valued by the court systems and VCC include:

Deliberation – As per the interim directive (see Appendix B), RSLIs use professional decision making while taking all applicable legislation, codes and policies into consideration.

Collaboration – As practice professionals, RSLIs are encouraged to collaborate confidentially with colleagues.

Documentation – As professionals, RSLIs are accountable for their decisions and the resulting outcomes. RSLIs will document ethical decisions where there is a perceived conflict between relevant codes, policies or laws by filling out the Ethical Decision Making Note (see Appendix B), which is also included in the Interim Decision Making Directive (see Appendix C). Documentation will include only relevant information in accordance with the Freedom of Information and Protection of Privacy Act (FOIPPA).

Conclusion

IS's goal is to work towards a transparent and accountable ethical practice that upholds the professional expectations of AVLIC, VCC, federal and provincial law and the communities RSLIs work in. The work that has been done on this document and its appendices are one part of bringing this to fruition and will hopefully provide some clarity into the more challenging aspects of our work. At the same time, as practice professionals engaged in a reflective practice, the discussion around ethics is never done and will continue to grow and evolve. As Cokely (2000) states:

The choices we make, and the actions that follow from those choices, can uphold or deny the dignity of other people, can advocate or violate the rights of other people, and can affirm or disavow the humanity of other people. Given the potential consequences of our choices and resultant actions, it is reasonable to expect that we constantly re-examine those values, principles, and beliefs which underscore and shape the decisions we make and the actions we undertake (p.3).

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Appendix A: Letter of Information

Interpreting Services at VCC

Welcome to VCC. Interpreters at VCC aim to have everyone to understand some of the laws, legislation, codes and policies that are a part of our ethical decision making. Have more questions? Just ask us. We are open to questions and discussion.

Did you know that the BC Human Rights Code applies to everyone in BC and Duty of Care applies to everyone in Canada? These are examples of a code and law that interpreters have to consider when making ethical decisions. Registered Sign Language Interpreters also follow AVLIC's Code of Ethics and Professional Conduct. In addition to these laws and codes that apply to interpreters working in all environments, VCC has additional policies we work under as well.

Below are some more information and resources to help you gain a better understanding of the roles and responsibilities of sign language interpreters in general and some that are specific for VCC.

Registered Sign Language Interpreters follow:

Duty of Care

All employees are responsible for preventing physical and emotional harm, including damage to people's health and property.

BC Human Rights Code

British Columbia's [Human Rights Code](#) applies to everyone. In BC we are all responsible for respecting individuals' human rights and stopping discrimination.

AVLIC

All Registered Sign Language Interpreters in BC are members of the Association of Visual Language Interpreters of Canada (AVLIC). Sign language interpreters are expected to follow [AVLIC's Code of Ethics and Guidelines for Professional Conduct](#).

In addition, at VCC we also work under:

VCC Policies

VCC has numerous polices for students and staff, including:

- The Student Code of Conduct
- Standards of Employee Conduct and Conflict of Interest Policy
- Prevention of Harassment, Discrimination, and Bullying Policy

If you have any questions regarding any of this information please ask the Interpreting Services Department Supervisor.

Appendix B: Ethical decision making note

Ethical Decision Making Note

Date:

Interpreter:

Primary Consumer:

Dilemma:

Conflicting principles, policies, codes or laws:

Decision

Action:

Signature: _____

Appendix C: Ethical decision-making directive

Directive: Interim Ethical Decision-Making: Interpreting Services

Version Date: February 3, 2015

Scope of Directive: This directive will outline the interim parameters for ethical decision-making by Registered Sign Language Interpreters working in Interpreting Services at Vancouver Community College pending sanctioned protocol put in place by VCC Administration.

Process Trigger: The interpreter finds themselves in a situation where there is a perceived conflict between or within:

- VCC policies;
- The BC Human Rights Code;
- AVLIC (Association of Visual Language Interpreters of Canada) Code of Ethics and Guidelines for Professional Conduct; and/or
- Other codes, policies, and/or laws they are operating within.

Interim Process: Until directed otherwise by the College, Interpreters will make ethical decisions as follows:

1. Interpreting Services staff member will meet with and discuss relevant codes and policies.
2. Interpreting Services Department Supervisor will communicate codes and policies to Casual Interpreters.
3. Interpreters will use their professional judgment in making ethical decisions, taking into consideration all relevant codes and policies.
4. Interpreters will document ethical decisions appropriately.
5. Interpreting Services will inform students of the role of Registered Sign Language Interpreters employed by VCC. This will be done through a dialogue between Interpreting Services and the student receiving services. Informed consent will be reiterated throughout the students' tenure at VCC by Interpreting Services.

Examples of Decision-Making Guidelines:

1. Interpreters will continue to interpret all lectures, conversations and non-instructional comments in both English and American Sign Language, including personal feelings and perceptions of the consumers involved. Interpreters value the autonomy of consumers and will interpret comments even if perceived as rude or insensitive. Consumers are then empowered to act as they see appropriate.
2. When codes, policies or laws are perceived as conflicting, the Interpreter will take all relevant information and context into account and make a professional decision that upholds the standards of the profession and the law.
3. When there is a perceived breach of the BC Human Rights Code, the Interpreter will continue to interpret, intervene and report as appropriate.
4. When there is a reasonable possibility of harm to self, others or property, the Interpreter will respond under Duty of Care.

Ethical Decision Making Documentation Protocol

The Interpreter will document ethical decisions appropriately. When an interpreter perceives a conflict between any of the relevant codes, policies or laws in place, they will document their decision as follows:

Permanent Interpreting Services Staff

1. Include only pertinent information including date, name of primary consumer, dilemma, conflicting principles and/or policies, decision and action taken.
2. Form will be sent to Interpreting Services Department Supervisor.

3. Interpreting Services Department Supervisor will keep all forms in a secure drive on a College computer in addition to a hard copy version which will be kept under lock and key. All forms will be destroyed after a period of seven years.

Casual or Temporary Interpreting Services Staff

1. Interpreter will contact Interpreting Services Department Supervisor to report decision.
2. The Interpreting Services Department Supervisor will fill out the attached form on the Interpreter's behalf.
3. Interpreting Services Department Supervisor will keep all forms in a secure drive on a College computer in addition to a hard copy version which will be kept under lock and key. All forms will be destroyed after a period of seven years.

Rationale: Ethical decisions are made in the interest of protecting all stakeholders including the College's students, staff and faculty. Registered Sign Language Interpreters are held to a high standard of ethical behaviour by not only their employer (VCC) and their professional association (AVLIC), but also by the Deaf community at large.