



# NCRA/COPE Guidance

## Use of Artificial Intelligence by Stenographic Court Reporters and Captioners



*Best Practices for Stenographic Court Reporters and Captioners Regarding AI in the Workplace*, written to align with NCRA's Code of Professional Ethics, advisory opinions, and long-standing principles – accuracy, impartiality, confidentiality, and professional responsibility. Stenographic reporters should use their training, experience, ethical guidelines, and professionalism to address specific circumstances.

\* Use of the term “stenographic reporter” applies to both judicial reporting and captioning where appropriate.

### FOUNDATIONAL PRINCIPLE

#### The record is created by the stenographic reporter

*The stenographic reporter or captioner is the sole creator, guardian, and certifier of the official record. Artificial Intelligence (AI) tools, if used at all, are strictly assistive and may not create, replace, or independently generate the official record in any form. The integrity of the record depends on the stenographic reporter's skill, training, imbedded stenographic real-time capture, and independent judgment. At no time does AI function as a substitute for the certified professional.*

### I. Core Responsibilities Under COPE

#### 1. Creation and Control of the Record (COPE Provision Nos. 1 & 9)

The stenographic reporter must personally create and maintain control over the record from imbedded stenographic realtime capture through certification. The official record originates from stenographic input and/or direct human-controlled processes. If the stenographic reporter did not create it, it is not the official record.

#### 2. Protection and Preservation of the Record (COPE Provision Nos. 1, 4, 9)

The stenographic reporter is responsible for safeguarding the record against loss, alteration, and unauthorized access. This includes preventing unauthorized recordings, protecting chain of custody, and preserving verbatim accuracy.

#### 3. AI as an Assistive Tool Only (COPE Provision No. 1)

AI may be used only to support the stenographic reporter's work and not to generate the record. Permissible uses could include technical research and/or clarification of spelling and vocabulary. AI may not be used to create transcripts or captions in place of stenographic capture.

#### 4. Transparency and Disclosure (COPE Provision No. 3)

Stenographic reporters must be truthful and transparent regarding their own use of AI tools. Disclosure should affirm that the stenographic reporter created, reviewed, and certified the record.

#### 5. Confidentiality and Data Security (COPE Provision No. 4)

No AI tool may be used in a way that compromises confidentiality. There must be no unauthorized transcript uploading, data sharing, storage, or reuse of proceeding content.

#### 6. Neutral Education of Attorneys and Participants

Stenographic reporters may educate participants about record-related issues but must not provide legal advice. They may clarify their role and encourage on-the-record discussion without directing decisions.

#### 7. Unauthorized AI Use by Third Parties

AI tools may be introduced by attorneys, parties, or observers (bots, recorders, transcription apps) without disclosure or consent. If AI tools are noted, the stenographic reporter should identify the tool, request identification of the tool, and seek clarification. Stenographic reporters may educate participants about possible potential AI-related issues regarding accuracy, biases, protection of confidential material such as government secrets, patented materials, personal identifying informa-

tion, minors' data, financial information, HIPAA-protected materials, as well as inherent risks such as creation of competing “shadow transcripts,” data misuse or retention, possible risk to privileges such as attorney-client, et cetera, but must not provide legal advice.

Additionally, AI notetaker apps that join meetings may record and analyze private conversations without proper consent even if the platform's microphone is muted, creating legal challenges and possibly violating wiretap laws, e.g., *brewer vs otter.ai*, *jacksonlewis.com*.

Stenographic reporters may clarify their role and encourage on-the-record discussion without directing decisions. Their role is to protect the integrity of the record while remaining impartial.

#### 8. Preservation of Professional Skill (COPE Provision No. 9)

Stenographic reporters must maintain stenographic proficiency independent of AI tools and be able to perform without them at any time.

#### 9. Compliance with Law and Court Rules (COPE Provision No. 10)

All AI use must comply with court rules, statutes, and requirements applicable to the stenographic reporter's responsibility.

### II. Captioning-Specific Considerations

Stenographic captioners must create and control captioning output. AI may not replace stenographic realtime human creation and control.

### III. Practical On-the-Record Language

“Let the record reflect that an additional technology tool has been identified. As the stenographic reporter, I am solely authorized for creating the official record. Counsel may wish to clarify the nature and use of this tool for the record.”

### IV. Guiding Policy Statement

Artificial Intelligence may be used only as a limited assistive tool for the stenographic reporter's sole use in quality control. The stenographic reporter remains the exclusive creator, protector, and certifier of the official record. Nothing in the use of AI diminishes the stenographic reporter's ethical responsibilities under the NCRA Code of Professional Ethics.

### Closing Principle

Regardless of any assistive tools utilized by the stenographic reporter or captioner, the record of all proceedings is always the sole, immutable responsibility of the stenographic reporter to preserve and protect in all aspects.