

AGENDA

LANGUAGE ACCESS COMMITTEE

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

Conference Rooms B & C
Friday, January 23, 2014
12:00 p.m. to 1:30 p.m.

12:00 p.m.	Welcome and Approval of Minutes (Tab 1)	Judge Rick Romney
12:05 p.m.	Interpreter Request for Reconsideration of Discipline	Committee
12:20 p.m.	Interpreter Records Retention	Rosa Oakes
12:40 p.m.	Interpreters Completing OCAP and Forms (Tab 2)	Committee
1:25 p.m.	Other Business	

Upcoming Meetings:

March 20, 2015

May 15, 2015

Tab 1

Meeting Date	Language Access Committee	
November 21, 2014	Education Room	
Members Present	Member Excused	
Maureen Magagna	Ghulam Hasnain	
Mary Kaye Dixon	Wendell Roberts	
Judge Rick Romney	Jennifer Andrus	
Judge Su Chon	Judge Rick Smith	
Michelle Draper		
Shantelle Argyle		
Miguel Medina		
Megan Haney		
Randall McUne		
Staff: Alison Adams-Perlac, Rosa P. Oakes		
Guests: Luther Gaylord, Tim Shea		
Topic: Approve minutes of October 17, 2014		
Mary Kaye Dixon moved to approve the minutes; Randall McUne seconded.		
Motion: Passed unanimously		
Topic: Discussion Regarding Interpreter Hearings		By Committee
<p>Committee members reviewed the overall process of conducting closed meetings relative to individual formal complaints. Members agreed that they should be informed ahead of time when accommodations will be made for the interpreter; however, interpreters should be discouraged from attending the meeting by video due to reliability of technology. Members also concluded that given the complexity of the hearings, only one should be scheduled per meeting. Before the meeting, the interpreter shall provide any evidence he/she would like to present so that copies can be made, and that an exact copy of the meeting materials be provided for the interpreter as well. Ms. Draper added that interpreters should be made aware that any consequences resulting from this committee may affect other non-court credentials the interpreter holds. Committee members further requested that the letter informing interpreters of a complaint against them include a clearer message of their responsibility to respond within 30 days and should note the consequences if a response is not received. Additionally, Rule 3-306 should be attached to the letter and sent by certified mail.</p>		
Topic: Interpreters Completing Court Forms for Patrons		By Alison Adams-Perlac
<p>Ms. Adams-Perlac described an issue that has emerged from having interpreters help court patrons with the OCAP program and filling out forms. The Law Library staff has come to rely on interpreters to assist with the form filling primarily due to a lack of other resources. A discussion with key members of the Law Library and Administration took place resulting in a recommendation to amend the code of ethics for interpreters. Ms. Adams-Perlac's stance is that while it is right to utilize interpreters for sight translating in instances where the patron does not read English or Spanish, it may not be right to have interpreters fill out forms for the patron. There are concerns that interpreters are</p>		

stepping out of their role when doing this. Ms. Adams-Perlac would like to give this committee an opportunity to consider the issue and offer an opinion before any policy changes are made. Given that there are many variables to consider, Judge Chon moved to table the topic until more information is available. Ms. Magagna seconded the motion; motion passed unanimously.

Next meeting January 23, 2015 at Noon

Meeting adjourned.

Tab 2

1 **Appendix H. Code Of Professional Responsibility For Court Interpreters**

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3 **Canon 7. Scope of practice.**

4 Interpreters shall limit themselves to interpreting or translating and shall not give legal advice, express
5 personal opinions to individuals for whom they are interpreting, or engage in any other activities which
6 may be construed to constitute a service other than interpreting or translating while serving as an
7 interpreter.

8 COMMENT

9 Since interpreters are responsible only for enabling others to communicate, they should limit
10 themselves to the activity of interpreting or translating only. Interpreters should refrain from initiating
11 communications while interpreting unless it is necessary for ensuring an accurate and faithful
12 interpretation.

13 Interpreters may be required to initiate communications during a proceeding when they find it
14 necessary to seek assistance in performing their duties. Examples of such circumstances include seeking
15 direction when unable to understand or express a word or thought, requesting speakers to moderate their
16 rate of communication or repeat or rephrase something, correcting their own interpreting errors, or
17 notifying the court of reservations about their ability to satisfy an assignment competently. In such
18 instances they should make it clear that they are speaking for themselves.

19 An interpreter may convey legal advice from an attorney to a person only while that attorney is giving
20 it. An interpreter should not explain the purpose of forms, services, or otherwise act as counselors or
21 advisors unless they are interpreting for someone who is acting in that official capacity. The interpreter
22 may translate language on a form for a person ~~who is filling out the form~~ of limited English proficiency, but
23 may not explain the form or its purpose ~~for such a person~~. The interpreter may record on the form the
24 answer, statement or information provided by the person of limited English proficiency in response to
25 what is requested by the form.

26 The interpreter should not personally serve to perform official acts that are the official responsibility of
27 other court officials including, but not limited to, court clerks, pretrial release investigators or interviewers,
28 or probation counselors.

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communication between attorney and client. This rule also applies to other types of privileged communications.

Interpreters must also refrain from repeating or disclosing information obtained by them in the course of their employment that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to an appropriate authority within the judiciary who is not involved in the proceeding and seek advice in regard to the potential conflict in professional responsibility.

CANON 6: RESTRICTION OF PUBLIC COMMENT

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

CANON 7: SCOPE OF PRACTICE

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Commentary:

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating only. Interpreters should refrain from initiating communications while interpreting unless it is necessary for assuring an accurate and faithful interpretation.

Interpreters may be required to initiate communications during a proceeding when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In such instances they should make it clear that they are speaking for themselves.

An interpreter may convey legal advice from an attorney to a person only while that attorney is giving it. An interpreter should not explain the purpose of forms, services, or otherwise act as counselors or advisors unless they are interpreting for someone who is acting in that official capacity. The interpreter may translate language on a form for a person who is filling out the form, but may not explain the form or its purpose for such a person.

The interpreter should not personally serve to perform official acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators or interviewers, or probation counselors.

CANON 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

Commentary:

If the communication mode or language of the non-English-speaking person cannot be readily interpreted, the interpreter should notify the appropriate judicial authority.

Interpreters should notify the appropriate judicial authority of any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (e.g., the court room is not quiet enough for the interpreter to hear or be heard by the non-English speaker, more than one person at a time is speaking, or principals or witnesses of the court are speaking at a rate of speed that is too rapid for the interpreter to adequately interpret). Sign language interpreters must ensure that they can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movement, as well as hand gestures.

Interpreters should notify the presiding officer of the need to take periodic breaks to maintain mental and physical alertness and prevent interpreter fatigue. Interpreters should recommend and encourage the use of team interpreting whenever necessary.

Interpreters are encouraged to make inquiries as to the nature of a case whenever possible before accepting an assignment. This enables interpreters to match more closely their professional qualifications, skills, and experience to potential assignments and more accurately assess their ability to satisfy those assignments competently.

Even competent and experienced interpreters may encounter cases where routine proceedings suddenly involve technical or specialized terminology unfamiliar to the interpreter (e.g., the unscheduled testimony of an expert witness). When such instances occur, interpreters should request a brief recess to familiarize themselves with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the presiding officer.

Interpreters should refrain from accepting a case if they feel the language and subject matter of that case is likely to exceed their skills or capacities. Interpreters should feel no compunction about notifying the presiding officer if they feel unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

Interpreters should notify the presiding officer of any personal bias they may have involving any aspect of the proceedings. For example, an interpreter who has been the victim of a sexual assault may wish to be excused from interpreting in cases involving similar offenses.