

AGENDA

LANGUAGE ACCESS COMMITTEE

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

Education Room
Friday, June 20, 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.	Update on Meeting with Board of Justice Court Judges	Alison Adams-Perlac
12:10 p.m.	Language and Culture Training Update	Jenny Andrus Judge Rick Romney
12:40 p.m.	Time limits for Registered I Interpreters	Alison Adams-Perlac Rosa Oakes
12:50 p.m.	Amendment to Canon 4 of the Code of Professional Responsibility for Interpreters (Tab 2)	Alison Adams-Perlac
1:10 p.m.	Other Business	

Committee Web Page: <http://www.utcourts.gov/committees/CourtInterpreter/>

Meeting Schedule: Matheson Courthouse, Judicial Council Room, 12:00 to 1:30 unless otherwise stated.

September 19, 2014

November 21, 2014

Tab 1

Meeting Date	Language Access Committee	
May 30, 2014	Education Room	
Members Present	Member Excused	
Judge Romney	Nidia Pendley	
Judge Chon	Judge Smith	
Randall McUne	Miguel Medina	
Mary Kaye Dixon	Wendell Roberts	
Maureen Magagna		
Jennifer Andrus		
Shantelle Argyle		
Megan Haney		
Michelle Draper		
Ghulam Hasnain		
Staff: Alison Adams-Perlac, Rosa P. Oakes		
Guests: Luther Gaylord, Nancy Sylvester, Noelia Erickson		
Topic: Approve minutes of March 21, 2014		
Discussion: Megan Haney moved to approve; Shantelle seconded the motion.		
Motion: PASSED		
Topic: Introduction of new members		By Judge Romney
Judge Romney introduced new members – Michelle Draper is the new ASL representative and Judge Chon represents the District Courts.		
Topic: Judicial Council Update		By Alison Adams-Perlac
<p>Ms. Adams-Perlac reported that although the Judicial Council has approved the 1% pay increase for contract interpreters this year, it was decided that contract interpreters' pay rates should be adjusted based on wage analysis of surrounding states in the future. This is a departure from past practices to grant pay increases consistent with court employee increases.</p> <p>Mr. Hasnain raised the issue of payment rates for rarer languages and questioned whether the committee ought to consider paying increased rates for those. Ms. Adams-Perlac stated that she is aware of this concern and indicated that the topic requires some further research.</p>		
Topic: Conference Update		By Rosa P. Oakes
<p>Ms. Oakes shared her experience at the conference of the Council on Language Access Coordinators (CLAC) which was held in Portland, OR. She mentioned a unique opportunity to meet and hear from an immigrant who had the misfortune of spending 4 years in prison after a conviction of murder. This person was an indigenous language speaker of Mexico who was erroneously provided with a Spanish interpreter during his proceedings. Ms. Oakes highlighted various new programs other states have implemented to provide education for court staff and to schedule/report on interpreter usage.</p>		

Topic: Subcommittee on Language & Culture		By Jenny Andrus
<p>Ms. Andrus reported that the subcommittee was tasked with developing a curriculum based on how language and culture intersect. Information gathered from focus groups and surveys was used to draft a curriculum which would be presented on a trial basis to the Justice Court Judges in the Fourth District. Ms. Andrus gave an impressive overview of the curriculum which gives an overall lesson on how language works in social and cultural contexts. She suggested that the class should be interactive and approximately 2 hours in length.</p>		
Topic: Interpreter Scheduling Best Practices		By Alison Adams-Perlac
<p>Ms. Adams-Perlac provided a document that gives some guidance on scheduling interpreters directed at interpreter coordinators. Some discussion on the benefits of consistency in certain situations was entertained.</p>		
Topic: Interpreter Competency & Mentoring		By Rosa P. Oakes
<p>Ms. Oakes reported that the program is looking to implement a mentoring piece to help integrate newly credentialed interpreters. The main issues are what should it look like and how or will mentors and mentees be compensated. Some discussion ensued. The consensus is that continuing education hours should be offered. It was agreed that a format should be presented for the committee's review.</p>		

Meeting Adjourned

Next meeting is September 19

Tab 2

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

2 **Introduction.**

3 This Code is based on the "Model Code of Professional Responsibility for Interpreters
4 in the Judiciary" developed by the National Center for State Courts with grant funding
5 from the State Justice Institute, as set forth in the publication, Court Interpretation: Model
6 Guides for Policy and Practice in the State Courts, Copyright 1995, National Center for
7 State Courts.

8 Many persons who come before the courts are partially or completely excluded from
9 full participation in the proceedings due to limited English proficiency or a speech or
10 hearing impairment. It is essential that the resulting communication barrier be removed,
11 as far as possible, so that these persons are placed in the same position as similarly
12 situated persons for whom there is no such barrier.⁽¹⁾ As officers of the court, interpreters
13 help ensure that such persons may enjoy equal access to justice, and that court
14 proceedings and court support services function efficiently and effectively. Interpreters
15 are highly skilled professionals who fulfill an essential role in the administration of
16 justice.

17 **Applicability**

18 This code shall guide and be binding upon all persons, agencies and organizations
19 who administer, supervise use, or deliver interpreting services to the judiciary.

20 **COMMENT**

21 The black letter principles of the Model Code on which this Code is based are
22 principles of general application that are unlikely to conflict with specific requirements of
23 rule or law in the states, in the opinion of the code's drafters. Therefore, the use of the
24 term "shall" is reserved for the black letter principles. Statements in the commentary use
25 the term "should" to describe behavior that illustrates or elaborates upon the principles.
26 The commentaries are intended to convey what the drafters of this model code believe are
27 probable and expected behaviors. Wherever a court policy or routine practice appears to
28 conflict with the commentary in this code, it is recommended that the reasons for the

29 policy as it applies to court interpreters be examined.

30

31 **Canon 1. Accuracy and completeness.**

32 Interpreters shall render a complete and accurate interpretation or sight translation,
33 without altering, omitting, or adding anything to what is stated or written, and without
34 explanation.

35 COMMENT

36 The interpreter has a twofold duty: (1) to ensure that the proceedings in English
37 reflect precisely what was said by a non-English speaking person, and (2) to place the
38 non-English speaking person on an equal footing with those who understand English.
39 This creates an obligation to conserve every element of information contained in a source
40 language communication when it is rendered in the target language.

41 Therefore, interpreters are obligated to apply their best skills and judgment to
42 preserve faithfully the meaning of what is said in court, including the style or register of
43 speech. Verbatim, "word for word" or literal oral interpretations are not appropriate when
44 they distort the meaning of the source language, but every spoken statement - even if it
45 appears non-responsive, obscene, rambling, or incoherent - should be interpreted. This
46 includes apparent misstatements.

47 Interpreters should never interject their own words, phrases, or expressions. If the
48 need arises to explain an interpreting problem (e.g., a term or phrase with no direct
49 equivalent in the target language or a misunderstanding that only the interpreter can
50 clarify), the interpreter should ask the court's permission to provide an explanation.
51 Interpreters should convey the emotional emphasis of the speaker without reenacting or
52 mimicking the speaker's emotions, or dramatic gestures.

53 The obligation to preserve accuracy includes the interpreter's duty to correct any error
54 of interpretation discovered by the interpreter during the proceeding. Interpreters should
55 demonstrate their professionalism by objectively analyzing any challenge to their
56 performance.

57 **Canon 2. Representation of qualifications.**

58 Interpreters shall accurately and completely represent their certifications, training, and
59 pertinent experience.

60 COMMENT

61 Acceptance of a case by an interpreter conveys linguistic competency in legal
62 settings. Withdrawing or being asked to withdraw from a case after it begins causes a
63 disruption of court proceedings and is wasteful of scarce public resources. It is, therefore,
64 essential that interpreters present a complete and truthful account of their training,
65 certification, and experience prior to appointment so the officers of the court can fairly
66 evaluate their qualifications for delivering interpreting services.

67 **Canon 3. Impartiality and avoidance of conflict of interest.**

68 Interpreters shall be impartial and unbiased and shall refrain from conduct that may
69 give an appearance of bias. Interpreters shall disclose any real or perceived conflict of
70 interest.

71 COMMENT

72 The interpreter serves as an officer of the court, and the interpreter's duty in a court
73 proceeding is to serve the court and the public to which the court is a servant. This is true
74 regardless of whether the interpreter is publicly retained at government expense or
75 retained privately at the expense of one of the parties.

76 The interpreter should avoid any conduct or behavior that presents the appearance of
77 favoritism toward any of the parties. Interpreters should maintain professional
78 relationships with their clients and should not take an active part in any of the
79 proceedings. The interpreter should discourage a non-English speaking party's personal
80 dependence.

81 During the course of the proceedings interpreters should not converse with parties,
82 witnesses, jurors, attorneys, or with friends or relatives of any party, except in the
83 discharge of their official functions. It is especially important that interpreters, who are
84 often familiar with attorneys or other members of the courtroom work group, including

85 law enforcement officers, refrain from casual and personal conversations with anyone in
86 court that may convey an appearance of a special relationship or partiality to any of the
87 court participants.

88 The interpreter should strive for professional detachment. Verbal and non-verbal
89 displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all
90 times.

91 Should an interpreter become aware that a proceeding participant views the interpreter
92 as having a bias or being biased, the interpreter should disclose that knowledge to the
93 appropriate judicial authority and counsel.

94 Any condition that interferes with the objectivity of an interpreter constitutes a
95 conflict of interest. Before providing services in a matter, court interpreters must disclose
96 to all parties and presiding officials any prior involvement, whether personal or
97 professional, that could be reasonably construed as a conflict of interest. This disclosure
98 should not include privileged or confidential information.

99 The following are circumstances that are presumed to create actual or apparent
100 conflicts of interest for interpreters where interpreters should not serve:

101 1. The interpreter is a friend, associate, or relative of a party or counsel for a party
102 involved in the proceedings;

103 2. The interpreter has served in an investigative capacity for any party involved in the
104 case;

105 3. The interpreter has previously been retained by a law enforcement agency to assist
106 in the preparation of the criminal case at issue;

107 4. The interpreter or the interpreter's spouse or child has a financial interest in the
108 subject matter in controversy or in a party to the proceeding, or any other interest that
109 would be affected by the outcome of the case;

110 5. The interpreter has been involved in the choice of counsel or law firm for that case.

111 Interpreters should disclose to the court and other parties when they have previously
112 been retained for private employment by one of the parties in the case.

113 Interpreters should not serve in any matter in which payment for their services is
114 contingent upon the outcome of the case.

115 An interpreter who is also an attorney should not serve in both capacities in the same
116 matter.

117 **Canon 4. Professional demeanor.**

118 Interpreters shall conduct themselves in a manner consistent with the dignity of the
119 court and shall be as unobtrusive as possible.

120 **COMMENT**

121 Interpreters should know and observe the established protocol, rules, and procedures
122 for delivering interpreting services. When speaking in English, interpreters should speak
123 at a rate and volume that enables them to be heard and understood throughout the
124 courtroom, but the interpreter's presence should otherwise be as unobtrusive as possible.
125 Interpreters should work without drawing undue or inappropriate attention to themselves.
126 Interpreters should dress in a manner that is consistent with the dignity of the proceedings
127 of the court.

128 Interpreters should avoid obstructing the view of any of the individuals involved in
129 the proceedings.

130 Interpreters are encouraged to avoid personal or professional conduct that could
131 discredit the court.

132 **Canon 5. Confidentiality.**

133 Interpreters shall protect the confidentiality of all privileged and other confidential
134 information.

135 **COMMENT**

136 The interpreter must protect and uphold the confidentiality of all privileged
137 information obtained during the course of her or his duties. It is especially important that
138 the interpreter understand and uphold the attorney-client privilege which requires
139 confidentiality with respect to any communication between attorney and client. This rule
140 also applies to other types of privileged communications.

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

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

148 **Canon 6. Restriction of public comment.**

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

152 **Canon 7. Scope of practice.**

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

157 **COMMENT**

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

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

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

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

178 **Canon 8. Assessing and reporting impediments to performance.**

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

182 COMMENT

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

185 Interpreters should notify the appropriate judicial authority of any environmental or
186 physical limitation that impedes or hinders their ability to deliver interpreting services
187 adequately, e.g., the court room is not quiet enough for the interpreter to hear or be heard
188 by the non-English speaker, more than one person at a time is speaking, or principals or
189 witnesses of the court are speaking at a rate of speed that is too rapid for the interpreter to
190 adequately interpret. Interpreters should notify the presiding officer of the need to take
191 periodic breaks to maintain mental and physical alertness and prevent interpreter fatigue.
192 Interpreters should recommend and encourage the use of team interpreting whenever
193 necessary.

194 Interpreters are encouraged to make inquiries as to the nature of a case whenever
195 possible before accepting an assignment. This enables interpreters to match more closely

196 their professional qualifications, skills, and experience to potential assignments and more
197 accurately assess their ability to satisfy those assignments competently.

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

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

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

213 **Canon 9. Duty to report ethical violations.**

214 Interpreters shall report to the proper judicial authority any effort to impede their
215 compliance with any law, any provision of this code, or any other official policy
216 governing court interpreting and legal translating.

217 COMMENT

218 Because the users of interpreting services frequently misunderstand the proper role of
219 the interpreter, they may ask or expect the interpreter to perform duties or engage in
220 activities that run counter to the provisions of this code or other laws, regulations, or
221 policies governing court interpreters. It is incumbent upon the interpreter to inform such
222 persons of his or her professional obligations. If, having been apprised of these
223 obligations, the person persists in demanding that the interpreter violate them, the

224 interpreter should turn to a supervisory interpreter, a judge, or another official with
225 jurisdiction over interpreter matters to resolve the situation.

226 **Canon 10. Professional development.**

227 Interpreters shall continually improve their skills and knowledge and advance the
228 profession through activities such as professional training and education, and interaction
229 with colleagues, and specialists in related fields.

230 COMMENT

231 Interpreters must continually strive to increase their knowledge of the languages they
232 work in professionally, including past and current trends in technical, vernacular, and
233 regional terminology as well as their application within court proceedings.

234 Interpreters should keep informed of all statutes, rules of courts and policies of the
235 judiciary that relate to the performance of their professional duties.

236 An interpreter should seek to elevate the standards of the profession through
237 participation in workshops, professional meetings, interaction with colleagues, and
238 reading current literature in the field.

239 1. A non-English speaker should be able to understand just as much as an English
240 speaker with the same level of education and intelligence would understand.

241