

## AGENDA

### LANGUAGE ACCESS COMMITTEE

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

Judicial Council Room  
Friday, November 13, 2015  
12:00 p.m. to 1:30 p.m.

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|--|--|---------------------|
| 12:00 p.m.   | Welcome  | Judge Rick Romney   |
| 12:02 p.m.   | Presentation of Certificate to Wendell Roberts               | Judge Rick Romney   |
| 12:05 p.m.   | Approval of Minutes (Tab 1)                                  | Judge Rick Romney   |
| <i>The next item on the agenda is closed under<br/>rule 3-306 of the Utah Code of Judicial Administration.</i> |  |                     |
| 12:10 p.m.   | Reconsideration of Denied<br>Interpreter Application (Tab 2) | Judge Rick Romney   |
| 12:40 p.m.   | Interpreter for Probation Colors Class (Tab 3)               | Megan Haney         |
| 12:50 p.m.   | Proposed Amendments to Rule 3-306.03 (Tab 4)                 | Alison Adams-Perlac |
| 1:10 p.m.  | Update on ASL Efforts  | Michelle Draper     |
| 1:25 p.m.  | Other Business   |                     |

#### **Upcoming Meetings:**

January 15, 2016

March 18, 2016

# Tab 1

| Meeting Date   | Language Access Committee |  |
|--|---------------------------|--|
| September 18, 2015   | Executive Dining Room     |  |
| <b>Members Present</b>   | <b>Member Excused</b>     |  |
| Judge Rick Smith   | Judge Rick Romney         |  |
| Judge Su Chon  | Maureen Magagna           |  |
| Michelle Draper  | Amine El Fajri            |  |
| Gabriella Grostic  | Jennifer Andrus           |  |
| Wendell Roberts  | Mary Kaye Dixon           |  |
| Randall McUne  | Rosa Oakes                |  |
| Megan Haney  |                           |  |
| Miguel Medina  |                           |  |
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| <b>Staff:</b> Alison Adams-Perlac  |                           |  |
| <b>Guests:</b>   |                           |  |
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| Topic: Approve minutes of May 15, 2015   |                           |  |
| Miguel Medina moved to approve the minutes; Randall McUne seconded the motion.   |                           |  |
|  |                           |  |
| Motion: Passed   |                           |  |
|  |                           |  |
| Topic: Proposed Amendments to Rule 3-306.03; .04; .05   By Alison Adams-Perlac   |                           |  |
| <p>In section 3 of the rule, Ms. Adams-Perlac addressed the committee's request to add a provision for the exemption of very specific parts of the requirements to become credentialed for rare languages. Discussion on defining "rare" and the matter of having conditions on the exemptions. Ms. Adams-Perlac will further develop language for the Rule based on the committee's comments.</p>   |                           |  |
| <p>In section 4 of the rule, Ms. Adams-Perlac noted that apart from (7)(A), the content is the same and in the revised format. Part (7)(A) is a revision on how often the Judicial Council will conduct market surveys on interpreter fees from every year to every three years. Ms. Grostic expressed concerns from contract interpreters. It was resolved that interpreters may express their concerns during the comment period prior to the amendment of the rule. Judge Chon moved to approve the change in the frequency of market surveys for review of interpreter's fees from one year to three years. Michelle Draper seconded the motion. Motion passed.</p>  |                           |  |
| <p>In section 5 of the rule, Ms. Adams-Perlac stated that in an effort to provide for disciplinary action due to unprofessional behavior toward court personnel and committee members, and being charged with or convicted of a crime, she has added part (2)(A)(viii). Discussion ensued regarding an interpreter's responsibility to disclose any pending charges during their career and how they can be made aware of this. Part (3) was added to clarify that interpreter coordinators have discretion to decline to assign interpreters listed on the statewide roster, as long as he or she is in compliance with Rule 3-306. Part 4(B) is intended to explain the process in the case that the program coordinator files a formal complaint. Parts (5) and (6) language incorporates and clarifies based on discussions held at previous meetings. Discussion regarding part (6)(B) surrounding the option for interpreters facing the committee to have an attorney</p> |                           |  |

and/or support person present. Judge Smith recommended general language such as “the chair may limit those in attendance to those reasonably necessary” be added. Judge Smith also recommended that Part (7)(A) should include that briefs or exhibits shall be submitted at least 7 days prior to the hearing. Finally, Michelle Draper requested a change in part (8) regarding the reporting of final findings and sanctions. Megan Haney moved to approve section 5 of the rule based on the amendments discussed. Gabriela Grostic seconded the motion. Motion passed.

Topic: Interpreter Records Retention Policy

By Alison Adams-Perlac

Ms. Adams-Perlac presented this topic as a follow-up from a previous meeting. She reviewed the proposal pointing out that only certain items would be kept at the AOC permanently while the interpreter is actively working. Ms. Grostic noted that interpreters should be informed that they are responsible for keeping their important documents. Ms. Adams-Perlac stated that a reference to this policy will likely be made in the overall court’s records retention policy. Miguel Medina moved to approve the policy; Randall McUne seconded the motion. Motion passed.

Topic: Update on National ASL Certification

By Michelle Draper

Michelle Draper informed the committee that the National Registry of Interpreters for the Deaf (RID) has set a moratorium (beginning 1/1/16) on their performance testing with no time frame on when it will be lifted. Due to financial constraints, RID is looking to assess the level of testing needs and will determine future certification based on the findings of a designated task force. Ms. Draper will keep the committee updated.

Future Meetings:

November 13, 2015

January 15, 2016

# Tab 2

*The information in this tab is closed under rule 3-306 of the Utah Rules of Judicial Administration.*

# Tab 3

## **Interpreters Payment Guidelines for Non-court Proceedings**

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The courts will pay to interpret all civil, criminal and juvenile hearings, all “front counter” conversations and all court annexed programs. However, the court is not responsible for paying for interpreting non-court proceedings—such as interviews by lawyers, investigators, probation officers and case workers—or translating documents associated with those proceedings.

Judges continue to have the discretion to order the court to pay when it otherwise would not, but judges should be aware that others have responsibility for interpreting non-court proceedings, just as the court has responsibility for interpreting court proceedings. Thus, special orders for payment should be rare and limited to interpretation or translation that furthers a court purpose.

If translation of a document is needed, the court should make arrangements for it to be done by one of the staff interpreters, if possible, rather than by a contract interpreter.

The court will pay for interpretation of:

- hearings conducted by a judge or court commissioner;
- lawyer/client consultations conducted in the courthouse as an adjunct to a hearing;
- “front counter” conversations;
- interviews by juvenile court probation officers, regardless of location;
- interviews of protective order clients by the Legal Aid Society of Salt Lake in the Matheson Courthouse;
- child welfare mediation and co-parenting mediation, which are court annexed mediation programs; and
- divorce education and divorce orientation classes, which are court-annexed programs.

The court will pay for translation, including sight translation, of:

- documents associated with a legal proceeding determined by the appointing authority to be vital to the proceeding;
- a transcript or audio recording of a court hearing; and
- a service plan, if not already completed by DCFS.

Unless ordered by the judge, the court will not pay for:

- translation of taped interrogations;
- interpretation of interviews by lawyers, investigators, DCFS case workers, custody or parent time evaluators or AP&P probation officers; or
- interpretation of divorce or other mediation, although the court will pay the interpreter if the parties qualify for pro bono mediation.

# Tab 4

1 **Rule 3-306.03. Interpreter certification.**

2 Intent:

3 To outline the procedure for certification of interpreters for legal proceedings.

4 Applicability:

5 This rule shall apply to legal proceedings in the courts of record and not of record. This rule shall  
6 apply to interpretation for non-English speaking people and not to interpretation for persons with a  
7 hearing impairment, which is governed by Utah and federal statutes.

8 Statement of the Rule:

9 (1) Subject to the availability of funding, and in consultation with the committee, the administrative  
10 office of the courts shall establish programs to certify and approve interpreters in English and the non-  
11 English languages most frequently needed in the courts. The administrative office shall publish a roster of  
12 certified, approved, and registered interpreters. To be certified, approved or registered, an applicant shall:

13 (1)(A) file an application form approved by the administrative office;

14 (1)(B) pay a fee established by the Judicial Council;

15 (1)(C) pass a background check;

16 (1)(D) provide proof that the applicant is a Utah resident;

17 (1)(E) complete training as required by the administrative office;

18 (1)(F) obtain a passing score on the court interpreter's test(s) as required by the administrative office;

19 (1)(G) complete 10 hours observing a certified interpreter in a legal proceeding; and

20 (1)(H) take and subscribe the following oath or affirmation: "I will make a true and impartial  
21 interpretation using my best skills and judgment in accordance with the Code of Professional  
22 Responsibility."

23 (2) A person who is certified in good standing by the federal courts or by a state having a certification  
24 program that is equivalent to the program established under this rule may be certified without complying  
25 with paragraphs (1)(A) through (1)(H) but shall pass an ethics examination and otherwise meet the  
26 requirements of this rule.

27 (3) A person certified under this rule has an ongoing obligation to immediately report to the program  
28 coordinator any criminal charges or convictions they have and any Utah State Court cases they are  
29 personally involved in as a party.

30 (4) When the interpreter speaks a rare language and the courts lack certified interpreters in that  
31 language, the Language Access Committee may, for good cause shown, exempt an interpreter from  
32 meeting one or both of the requirements listed in subparagraph (1)(B) and (1)(F). An interpreter seeking  
33 an exemption shall make a written request, outlining the reasons for the exemption, to the Language  
34 Access Program Coordinator. The Language Access Committee shall consider the request at its next  
35 meeting following the request, and may require the interpreter making the request to appear at the  
36 meeting or to provide more information.

37        (5) If an exemption is granted, the interpreter shall meet the conditions set by the committee and shall  
38 apply for an extension of the exemption annually, or as otherwise required by the committee.

39        ~~(36)~~ No later than December 31 of each even-numbered calendar year, certified, approved, and  
40 registered interpreters shall pass the background check for applicants, and certified interpreters shall  
41 complete at least 16 hours of continuing education approved by the administrative office of the courts.

42        (7) With the exception of staff interpreters who are employees of the courts, court interpreters,  
43 including those listed on the statewide roster, are independent contractors.