

# Agenda

## Court Interpreter Committee

January 22, 2010  
12:00 to 1:30 p.m.

Administrative Office of the Courts  
Scott M. Matheson Courthouse  
450 South State Street  
Conference Room A, Suite W19

Welcome and approval of minutes	Tab 1	Judge Vernice Trease
Integrating credentials with OPI testing	Tab 2	Tim Shea
Judicial Council initiatives		Tim Shea
Mileage reimbursement	Tab 3	
State of the Judiciary address		
Accounting manual changes	Tab 4	
Full time contract	Tab 5	
Centralized scheduling		
Distance interpretation		

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

**Meeting Schedule:** Matheson Courthouse, 12:00 to 1:30, Judicial Council Room

May 28, 2010

September 24, 2010

Tab 1

<b>Minutes</b>	<b>Cout Interpreter Committee</b>	
September 25, 2009	Judicial Council Room	
<b>Members Present</b>	<b>Member Excused</b>	
Evangelina Burrows	Daryl Hague	
Luther Gaylord	Judge Karlin Myers	
Peggy Gentles	Judge Frederic Oddone	
Craig Johnson	Dinorah Padro	
Deborah Kreeck Mendez	Carolyn Smitherman	
Branden Putnam	Jennifer Storrer	
Judge Vernice Trease, Chair		
Staff: Tim Shea & Rosa Oakes		
Guests:		
Topic: Approve minutes of May 22, 2009		
Discussion: None		
Motion: Craig moved to approve, Deborah 2 <sup>nd</sup>		
Vote: 7 Yes 0 No 0 Abstain   Motion passed		
Topic: Accounting manual changes to fee structure		
		By Tim Shea
Discussion: Topic postponed		
Topic: Report on FY 2009 measures		
		By Tim Shea
Discussion: Tim shared interpreter usage data compiled to demonstrate where, when and who of Spanish (most common language) interpreters are serving the courts. Tim highlighted that 97% of interpreting work is served by certified interpreters. Observations were made on how coordinators schedule interpreters. He mentioned the possibility of hiring interpreters as contract employees and noted that it might be difficult to keep them busy during certain hours.		
Discussed the discrepancy between districts with similar populations of Hispanics and the usage of court interpreters.		
Tim reported that the Judicial Council has requested a review of possibly centralizing the interpreter scheduling function.		
Topic: OPI		
		By Rosa Oakes
Discussion: Report on 2010 language-neutral training and language-specific testing in 11 languages. What happens to interpreters who are on the approved list when certification is available?		
Oral Proficiency Interview tests language skills. Definitely have Spanish approved interpreters undergo OPI testing. Discussion on the high fees for OPI testing and options for payment requirement.		
Motion: Peggy moved to reduce the pay of approved interpreters if/when there is a Utah certified interpreter in the same language, Deborah 2 <sup>nd</sup>		
Vote: 7 Yes 0 No 0 Abstain   Motion passed		
Topic: Judicial Council Initiative		
		By Tim Shea
Discussion: Tim reported that annually the Judicial Council appoints an ad hoc committee to study a project and make recommendations. This year Dan Becker has recommended the study of interpretation in civil matters paid for by the courts.		

# Tab 2

Proposed Integration of OPI testing and Credentials

Accounting Manual Provision	Application
i. Certified Interpreters shall receive an hourly rate of \$38.63.	Interpreters who pass the Consortium's certification exam.
<a href="#">ii. Approved Interpreters shall receive an hourly rate of \$33.10.</a>	Interpreters who pass the Oral Proficiency Interview.
<del>ii. Approved</del> <a href="#">iii. Registered</a> Interpreters in languages for which there is no <del>certification testing</del> program shall receive an hourly rate of \$33.10.	Interpreters in a language for which there is no certification or OPI examination.
<del>iii. Approved</del> <a href="#">iv. Registered</a> Interpreters in languages for which there is a <del>certification testing</del> program shall receive an hourly rate of \$24.82.	Interpreters who do not take or do not pass an available certification or OPI examination.
<del>iv-v. Conditionally Approved Interpreters shall receive an hourly rate of \$24.82 in languages for which there is no certification program and \$18.03 in languages for which there is a certification program.</del>	No change, except to remove the distinction between languages in which there is an available examination and those in which there is not.
<del>v-vi.</del> Interpreters who are not certified, approved, or conditionally approved shall not receive payment.	No change.

# Tab 3

## Accounting Manual Policy Change

Effective January 12, 2010, the Judicial Council Management Committee has suspended the normal in-state reimbursement rate policy for the remainder of FY 2010 as a budget-cutting measure. All in-state mileage will be paid at the \$0.36 per mile rate until June 30, 2010. This policy applies to all travel commenced on or after January 12, 2010. Court personnel and non-court personnel travel are covered by this policy.

# Tab 4

1 **Court Interpreters**

2 ~~The content of this section was provided by the Court Interpreter Advisory Panel,~~  
3 ~~August 23, 2001, and became effective January 1, 2002. Revisions were reviewed and~~  
4 ~~recommended by the Court Interpreter Committee on January 21, August 26, and~~  
5 ~~October 28, 2005, and became effective December 19, 2005, after approval by the~~  
6 ~~Judicial Council.~~

7 Purpose:

8 To outline the accounting policies and procedures regarding payment of interpreters  
9 in courts of record for non-English speaking persons and for hearing-impaired persons.

10 Policy:

11 A. INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS

12 1. These provisions do not apply to a court employee or an interpreter under  
13 contract with the court.

14 2. The state courts will pay for interpreter fees and expenses in courts of record in  
15 the ~~following~~ cases: authorized by Rule 3-306.

16 a. ~~Criminal cases~~

17 b. ~~Juvenile court cases brought by the state, and for preliminary inquiries in juvenile~~  
18 ~~court~~

19 c. ~~Cases filed against the state pursuant to U.R.C.P. 65B(b) or 65C~~

20 d. ~~Cases filed under the Cohabitant Abuse Act, (§ § 30-6-1 et.seq., Utah Code)~~

21 e. ~~Cases filed for Stalking injunctions, pursuant to § § 77-3a-101 et.seq., Utah Code~~

22 f. ~~Cases filed for child protective orders, pursuant to § § 78B-7-206 et.seq., Utah~~  
23 ~~Code~~

24 g. ~~Other cases in which the court determines that the state is obligated to pay for an~~  
25 ~~interpreter's services.~~

26 2. ~~In all other cases, the party engaging the services of the interpreter shall pay the~~  
27 ~~interpreter fees and expenses.~~

28 3. ~~In the cases described in subsection 1 above, the state courts will pay for the~~  
29 ~~following:~~

30 a. ~~One interpreter for non-English speaking defendants and non-English speaking~~  
31 ~~defense witnesses.~~

32 ~~b. A separate interpreter for a non-English speaking defendant and/or defense~~  
33 ~~witness when the judge determines that the person needing the additional interpreter~~  
34 ~~has an adverse interest with another person requiring an interpreter, and the judge~~  
35 ~~determines that due process, confidentiality, or other extraordinary circumstances~~  
36 ~~require that there be separate interpreters for each.~~

37 ~~c. Two interpreters for person(s) requiring an interpreter under 3a or b above, when~~  
38 ~~the judge deems that the court hearing is of such lengthy duration that two interpreters~~  
39 ~~are required to alternate duties.~~

### 40 3. Definitions.

41 a. "Assignment" means all of the interpreter's morning or afternoon work in a jail,  
42 detention center or state courthouse not interrupted by travel to another jail, detention  
43 center or state courthouse.

44 b. "Cancellation" of a legal proceeding includes early termination.

45 c. "Legal proceeding" has the same definition as in Rule 3-306.

46 d. "Notice" and "notify" mean a communication made by the means likely to give  
47 actual notice, including text and phone messages, regardless of whether the  
48 communication is received.

### 49 4. Interpreter Fees

50 ~~Interpreters shall be paid the greater of~~  
51 ~~the hourly fee as set forth in section 6(a) below,~~

52 ~~or~~

53 ~~the guaranteed fee as set forth in section 6(b) below.~~

54 ~~5. If a court proceeding (other than a trial/hearing as defined in section 6(h) below)~~  
55 ~~for which an interpreter is assigned is canceled within two business days or less of the~~  
56 ~~date of the proceeding, and the interpreter is notified of the cancellation, the interpreter~~  
57 ~~is guaranteed a fee of one hour's pay. Neither this paragraph nor sections 6 or 6(h)~~  
58 ~~below apply to assignments made within two business days or less of the date of the~~  
59 ~~proceeding, for which no cancellation fee will be paid.~~

60 ~~6. If a court proceeding (other than a trial/hearing as defined in subsection h below)~~  
61 ~~for which an interpreter is scheduled is canceled, and the interpreter is not notified of~~

62 ~~the cancellation at least two business days before the scheduled assignment, the~~  
63 ~~interpreter is guaranteed a fee pursuant to subsection b.i, b.ii or b.iii below.~~

64 a. Hourly Fees

65 i. Certified interpreters shall receive an hourly rate of \$38.63.

66 ii. Approved Interpreters in languages for which there is no certification program  
67 shall receive an hourly rate of \$33.10.

68 iii. Approved Interpreters in languages for which there is a certification program shall  
69 receive an hourly rate of \$24.82.

70 iv. Conditionally Approved Interpreters shall receive an hourly rate of \$24.82 in  
71 languages for which there is no certification program and \$18.03 in languages for which  
72 there is a certification program.

73 v. Interpreters who are not certified, approved, or conditionally approved shall not  
74 receive payment.

75 b. ~~Guaranteed Minimum Fees (related to miles traveled)~~

76 ~~i. Interpreters who travel 0 – 25 miles one way for an assignment are guaranteed a~~  
77 ~~minimum one-hour fee.~~

78 ~~ii. Interpreters who travel 26 – 75 miles one way for an assignment are guaranteed a~~  
79 ~~minimum two-hour fee.~~

80 ~~iii. Interpreters who travel more than 75 miles one way for an assignment are~~  
81 ~~guaranteed a minimum four-hour fee.~~

<u>Interpreters who travel at least this far (one way) from their home base or from their previous assignment:</u>	<u>Will be paid for at least this much time:</u>
<u>0 miles</u>	<u>1 hour</u>
<u>25 miles</u>	<u>2 hours</u>
<u>50 miles</u>	<u>3 hours</u>
<u>75 miles</u>	<u>4 hours</u>

82 ~~iv. An interpreter may receive up to two guaranteed fees per court site, per day one~~  
83 ~~in the morning and one in the afternoon. Interpreters will be reimbursed for mileage only~~  
84 ~~once (round trip), unless there is an intervening court site. Distance shall be calculated~~  
85 ~~in accordance with charts prepared by the Administrative Office of the Courts. If the~~

86 interpreter interprets legal proceedings in the afternoon in the same courthouse as in  
87 the morning, the afternoon proceedings shall be considered a subsequent assignment,  
88 and the distance traveled is zero.

89 v. Interpreters may waive ~~travel-related guaranteed minimum~~ fees and mileage  
90 ~~payments described in Sections 6(b)(i)–(iv) above, as required to qualify for~~  
91 participation in rotation assignments schedules effective in some districts.

92 ~~c. After application of the guaranteed fee on any given assignment additional time~~  
93 ~~will be paid in half-hour increments.~~

94 ~~d. Interpreters will be paid for time beginning when the interpreter reports for duty as~~  
95 ~~directed by the court, even if the interpreter does not begin to interpret immediately~~  
96 ~~because of other matters before the court. The time ends when the interpreter has~~  
97 ~~completed his/her interpreting assignment. Interpreters will be paid only for interpreting~~  
98 ~~services performed in the courtroom, in proceedings before the judge, unless the judge~~  
99 ~~specifically orders that the interpreter serve in a different location or circumstance.~~

100 c. The courts will pay for time interpreting in legal proceedings from the scheduled  
101 start or actual start of the proceeding, whichever is earlier, until the end of the  
102 proceeding. If the scheduled start is delayed because the interpreter is late, the  
103 interpreter will be paid for time interpreting from the actual start of the legal proceeding  
104 until the end of the proceeding. If someone other than the scheduled interpreter  
105 interprets the proceeding because the scheduled interpreter is late, the courts will not  
106 pay the scheduled interpreter.

107 ~~e. After application of the guaranteed fee on any given assignment, interpreters will~~  
108 ~~be paid d. The courts will pay for waiting time in up to one hour between the end of one~~  
109 ~~interpreting assignment legal proceeding during an assignment and the beginning of~~  
110 ~~another interpreting assignment in the same court location, in half-hour increments, for~~  
111 ~~a maximum of one hour. After application of the guaranteed fee on any given~~  
112 ~~assignment, interpreters will not be paid for waiting time in excess of one hour between~~  
113 ~~interpreting assignments the next.~~

114 ~~f. After application of the guaranteed fee on any given assignment, interpreters will~~  
115 ~~not be paid for waiting time during the court recess for lunch.~~

116 e. If the sum of all time calculations for an assignment is more than the minimum  
117 fee, the interpreter will be paid for the sum of all time calculations for an assignment  
118 rounded up to the nearest one-half hour.

119 ~~g. Interpreters will not be paid for time spent traveling (other than as specified in the~~  
120 ~~"guaranteed fee" section above).~~

121 ~~h. Fees paid for cancelled trials/hearings and for trials/hearings which terminate~~  
122 ~~early:~~

123 ~~Definitions: For purposes of applying the cancellation and early termination policies~~  
124 ~~set forth below, the following definitions shall be used:~~

125 ~~A "trial" or "hearing" is a court proceeding in a single case scheduled to take one day~~  
126 ~~or longer.~~

127 ~~"Scheduled time" is the time for which the interpreter is asked to be present at court~~  
128 ~~to provide interpreting services for the trial or hearing. The interpreter must be advised~~  
129 ~~of the scheduled time by the judge, or by the interpreter coordinator, clerk, or other court~~  
130 ~~employee at the direction of the judge.~~

131 ~~"Cancellation" is a situation in which an interpreter is informed by the appropriately~~  
132 ~~designated court employee that previously scheduled interpretation services will no~~  
133 ~~longer be needed, at any time up until the interpreter enters the courtroom to perform~~  
134 ~~those services.~~

135 ~~"Early termination" is a situation in which notification that interpreter services will not~~  
136 ~~be needed is given at any time after the interpreter enters the room and is readily~~  
137 ~~available to perform those services that have been requested through an official~~  
138 ~~interpreting assignment.~~

#### 139 Pay Policy for Cancellations

140 ~~If the cancellation occurs more than two business days before the scheduled~~  
141 ~~beginning of the trial or hearing, and the interpreter receives timely notification of the~~  
142 ~~cancellation, the interpreter shall not be paid.~~

143 ~~If the cancellation occurs, or the interpreter is notified of the cancellation, less than~~  
144 ~~two business days before the scheduled beginning of the trial or hearing, the interpreter~~  
145 ~~shall be paid for 50% of the fee the interpreter would have received had the trial or~~  
146 ~~hearing not been canceled, or 50% of the fee for two days, whichever is less. Under this~~

147 ~~circumstance, the interpreter must be available to take other work assignments either in~~  
148 ~~the court where the cancellation occurred or in another court. The interpreter shall be~~  
149 ~~paid for whichever is greater--the fee as indicated above for the canceled trial or~~  
150 ~~hearing, or for the time of the actual work.~~

151 ~~Pay Policy for Early Terminations~~

152 ~~Beginning at the time of the early termination, the interpreter shall be paid for 50% of~~  
153 ~~the fee the interpreter would have received had the trial or hearing not terminated early,~~  
154 ~~or for two days past the time at which the early termination occurred, whichever is less.~~

155 ~~When the trial or hearing terminates early, the interpreter must be available to take~~  
156 ~~other work assignments either in the court where the early termination occurred, or in~~  
157 ~~another court. The interpreter shall be paid for whichever is greater--the fee as indicated~~  
158 ~~above for the early termination, or for the time of the actual work.~~

159 f. Cancellation of legal proceedings

160 i. The courts will pay for canceled legal proceedings under the following conditions:

161 (A) the interpreter is scheduled for the proceeding more than 48 hours before the  
162 scheduled start of the proceeding; and

163 (B) the interpreter is notified of the cancellation less than 48 hours before the  
164 scheduled start of the proceeding; and

165 (C) the cancellation is not due to the interpreter's absence or tardiness.

166 ii. Legal proceedings of 6 hours or more. If the interpreter is notified before arriving in  
167 the courtroom, the court will pay for 50% of the fee for the scheduled time up to a  
168 maximum of 6 hours or the minimum fee, whichever is greater. If the interpreter is  
169 notified after arriving in the courtroom, the court will pay for the time worked plus 50% of  
170 the fee for the balance of the scheduled time up to a maximum of 12 hours or the  
171 minimum fee, whichever is greater.

172 iii. Legal proceedings of less than 6 hours. If the interpreter is notified between 12  
173 and 48 hours before the scheduled start time, the courts will pay for one hour. If the  
174 interpreter is notified less than 12 hours before the scheduled start time, the courts will  
175 pay the minimum fee.

176 iv. The courts will pay for mileage reimbursement for each mile actually and  
177 necessarily traveled if the interpreter is notified while in route to the legal proceeding.

178 g. On-call

179 i. Subject to the Code of Professional Responsibility, the interpreter must take  
180 assignments offered during any time the interpreter is being paid or forfeit the fee for  
181 that period of time. The interpreter will be paid one fee for that time. The appointing  
182 authority may release an interpreter if there are no legal proceedings to interpret.

183 ii. If there is an extended delay in the interpreter's duties in a legal proceeding, (such  
184 as waiting for a jury to complete deliberations) the appointing authority may:

185 (A). (usually for long periods) release the interpreter, in which case the interpreter  
186 has no obligation to the court and is not paid during the interim. A legal proceeding after  
187 the release is treated as a regular assignment.

188 (B). (usually for intermediate periods) direct the interpreter to remain on-call, in  
189 which case the interpreter may leave the courthouse, but must be able to return within  
190 the time after notice specified by the appointing authority. The court will pay at the ratio  
191 of 1 hour for every 2 hours on-call or fractions thereof up to a maximum of 6 hours (12  
192 hours on-call). A fraction of an hour is rounded up to the next hour. A legal proceeding  
193 after the on-call notice is treated as a regular assignment.

194 (C). (usually for short periods) direct the interpreter to wait at the courthouse, in  
195 which case the court will pay for the actual waiting time.

196 i.-h. Mileage. Interpreters will be paid for ~~total (round-trip) mileage miles~~ traveled in  
197 excess of 25 miles ~~or more one-way~~ at the same rate as state employees.

198 j.-i. Lodging and Per Diem. Interpreters will be paid for lodging and per diem at the  
199 same rate as state employees. Per diem expenses will be paid only when overnight  
200 lodging is required and ~~approved by an interpreter coordinator, or when~~ approved in  
201 advance by the interpreter program manager at the administrative office ~~for~~  
202 ~~assignments involving extraordinary mileage or for interpreters traveling to Utah from~~  
203 ~~other states.~~

204 k.-j. Common carrier. Payment of an interpreter's travel by common carrier, i.e.,  
205 commercial bus, train or plane, may be reimbursed, but must be approved in advance  
206 by the interpreter program manager at the administrative office.

207 k. Request for payment.

208 Interpreters shall submit requests for payment on a form provided by the  
209 administrative office. ~~The form shall be signed by the interpreter, verified by a Clerk of  
210 Court or Deputy Clerk, and initialed by an Interpreter Coordinator, or other person  
211 authorized by the Interpreter Coordinator.~~

212 ~~All interpreters must provide the administrative office with a Utah taxpayer  
213 identification number or social security number prior to receiving payment.~~

#### 214 B. INTERPRETERS FOR HEARING-IMPAIRED PERSONS

215 1. Policies concerning interpreters for the hearing-impaired are governed by 78B-1-  
216 201 et.seq., Utah Code, and the Americans with Disabilities Act

217 2. The State Courts will pay for one interpreter for each hearing-impaired party, juror,  
218 witness or courtroom visitor in all criminal, civil, and juvenile proceedings. If a hearing  
219 takes more than two hours, the State Courts will pay for two interpreters. If the hearing  
220 takes an entire day, the State Courts may pay for more than two interpreters, if ~~so~~  
221 requested.

222 3. Pursuant to Section 78B-1-208, Utah Code, reasonable fees for interpreters for  
223 the hearing-impaired are set either by a fee schedule recommended by the division of  
224 rehabilitation services, or by prevailing market rates. In addition, interpreters for the  
225 hearing-impaired are entitled to a fee for waiting time, and to reimbursement for  
226 necessary travel and subsistence expenses. Reimbursement for necessary travel and  
227 subsistence expenses shall be at rates provided by law for state employees generally.  
228 Interpreter coordinators or court clerks responsible for securing interpreters for the  
229 hearing-impaired should periodically confirm current fees for interpreters for the hearing-  
230 impaired through the Purchasing Department of the administrative office.

231 4. ~~Courts should assign a Master Level Certified Interpreter, preferably one who has  
232 completed the AOC's workshop for Approved Interpreters. If a Master Lever Interpreter  
233 is not available, an Intermediate Level Interpreter may be assigned, one who has  
234 completed the AOC workshop for Approved Interpreters. Credentials.~~

235 a. Courts should schedule an interpreter who has at least one of the following  
236 certifications in good standing:

237 i. State of Utah, Master Certificate;

238 ii. Registry of Interpreters for the Deaf, Specialist Certificate: Legal;

- 239 iii. Registry of Interpreters for the Deaf, Certified Deaf Interpreter; or  
240 iv. National Interpreter Certification, Master or Advanced Certificate,  
241 v. and preferably has completed the AOC's workshop for approved interpreters.  
242 b. If an interpreter with such credentials is not available, the courts should schedule  
243 an interpreter who has at least one of the following certifications in good standing:  
244 i. State of Utah, Intermediate Certificate;  
245 ii. Registry of Interpreters for the Deaf, Certificate of Interpretation;  
246 iii. Registry of Interpreters for the Deaf, Certificate of Transliteration; or  
247 iv. National Interpreter Certification, Certified Level,  
248 v. and preferably has completed the AOC's workshop for approved interpreters.

249 5. Courts should try to schedule appointments 24 hours or more in advance,  
250 because last-minute appointments, scheduled on the same day that service is provided,  
251 may incur surcharges. Courts ~~should first attempt to schedule appointments through the~~  
252 ~~Utah Interpreter Program at 801-263-4870. If interpreters cannot be scheduled through~~  
253 ~~the Utah Interpreter Program, their services may be secured through individual~~  
254 ~~interpreters or through private agencies, which are listed at [www.aslterps.utah.gov](http://www.aslterps.utah.gov) must~~  
255 schedule interpreters through agencies holding a state contract.

256 6. Cancellation Policy

257 To avoid being billed for the duration of a scheduled appointment, notice of  
258 cancellation should be given at least 24 hours in advance of the start of an assignment.

259 Cancellation payment policies for language interpreters are inapplicable to  
260 interpreters for the hearing-impaired. Applicable cancellation payment policies are  
261 determined by the Utah Interpreter Program, or by private agencies or interpreters from  
262 whom service is secured.

263 7. ~~Any Agencies shall submit an~~ invoice for interpreter service ~~or any "Request for~~  
264 ~~Payment of Interpreter Fees" submitted by the interpreter directly to the Interpreter~~  
265 ~~Program Manager at the AOC Purchasing that has not been signed by the district~~  
266 ~~interpreter coordinator will be verified. An AOC Purchasing Agent The Program~~  
267 Manager will contact the district interpreter coordinator, who will check court records to  
268 ensure that the invoice ~~or form information~~ is accurate and that the payment amount is  
269 correct.

270 ~~\*A "certified interpreter" is an interpreter who has fulfilled the requirements for~~  
271 ~~certification specified under Rule 3-306, CJA and by the Interpreter Advisory Panel. A~~  
272 ~~list of certified interpreters is compiled by the administrative office and distributed to all~~  
273 ~~courts for their reference.~~

274 ~~\*\*An "approved interpreter" is an uncertified interpreter who has been appointed~~  
275 ~~because no certified interpreter is reasonably available. "Approved" interpreters must~~  
276 ~~meet the requirements specified under Rule 3-306, CJA and by the Interpreter Advisory~~  
277 ~~Panel. The names of "approved" interpreters are placed on a list that is distributed by~~  
278 ~~the administrative office to all courts for their reference.~~

279 ~~\*\*\*A "conditionally approved" interpreter is an uncertified interpreter who has been~~  
280 ~~appointed because no certified or approved interpreter is reasonably available. The~~  
281 ~~"conditionally approved" interpreter must satisfactorily respond to questions by the court~~  
282 ~~or appointed designee, as to the interpreter's background, education and experience,~~  
283 ~~and be found to have a minimum level of qualifications. Names of these interpreters are~~  
284 ~~not placed on a list, and they must be "conditionally approved" each time they interpret~~  
285 ~~in the courts.~~

286 ~~\*\*\*\*An interpreter who is neither certified, approved, nor conditionally approved may~~  
287 ~~be appointed when a certified, approved, or conditionally approved interpreter is not~~  
288 ~~reasonably available, or the court determines that the gravity of the case and potential~~  
289 ~~penalty to the accused person involved are so minor that delays attendant to obtaining a~~  
290 ~~certified, approved, or conditionally approved interpreter are not justified.~~

291

# Tab 5



# Administrative Office of the Courts

Chief Justice Christine M. Durham  
Utah Supreme Court  
Chair, Utah Judicial Council

## MEMORANDUM

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator

**To:** Judicial Council  
**From:** Tim Shea *TS*  
**Date:** January 19, 2010  
**Re:** Interpreter budget analysis

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### (1) Contract for full-time interpreter

#### (a) Concept in more detail

Rather than ad hoc oral agreements to work for a specified time at an hourly fee, the courts would enter into a written contract with one or more interpreters for an annual fee based on 40 hours of work per week. Brent Johnson advises that a contract for full time interpreter services in which the courts exert as much control as we anticipate necessarily creates an employer/employee relationship rather than an independent contractor relationship. This means that the employment contract must meet the minimum requirements of the Fair Labor Standards Act, but the FLSA does not require benefits.

At least initially, the contract would be for one year (a full-time, temporary position) to examine the feasibility of full-time arrangements with interpreters.

#### (b) Making it happen

- 1) Decide on number of interpreters to be hired.
- 2) Authorize detailed position record (DPR).
- 3) Write contract. (The interpreter will not be interpreting all of the time, so describing other duties that make use of the interpreter's language skills will be important.)
- 4) Discuss scheduling options. (Currently, all courts use essentially the same scheduling pattern: most hearings start at 8:00 to 9:00 in the morning with a second, smaller spike at 1:00 to 2:00 in the afternoon. One interpreter could interpret at more hearings if hearings were scheduled more evenly throughout the day.
- 5) Assign positions to courthouse/supervisor/etc.

The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.

- 6) Advertise; hire.

## **(2) Centralized scheduling**

### **(a) Concept in more detail**

- 1) The judicial assistants schedule hearings in CORIS/CARE and include the language to be interpreted. (The act of scheduling a hearing with an interpreter automatically sends an email to the coordinator with the hearing date and time and the language to be interpreted, including ASL. Canceling the hearing sends another email to the coordinator. Scheduling in CORIS/CARE is something the judicial assistant does in the normal course. It is the tool by which the judicial assistant communicates to the coordinator the need for an interpreter. Courts will have to be religious about scheduling their hearings in CORIS and CARE and keeping them up to date.)
- 2) Schedule an unassigned interpreter as needed. (Some courts schedule an unassigned Spanish interpreter for peak hours, anticipating the need for unscheduled hearings.)
- 3) Schedule interpreter on GroupWise. (In GroupWise, the interpreters are treated as a "resource," like a car or a room, to be reserved. Using the proxy feature, a judge/judicial assistant can see which interpreter is scheduled for a hearing.
- 4) Confirm authorization for payment.

### **(b) Making it happen**

- 1) Estimate FTE needed.
- 2) Cobble together FTEs.
- 3) Assign personnel to courthouse/supervisor/etc. (Although a centralized function, interpreter scheduling remains a trial court function and should be assigned to a trial court rather than to the AOC.)
- 4) Develop procedures; training.
- 5) Build communication links with local courts.
- 6) Investigate best practices.

## **(3) Distance interpreting**

### **(a) Concept in more detail**

Distance interpreting means the interpreter is not in the courtroom. Beyond that, there are few limits other than those imposed by sound judgment. It can be used to more conveniently "move" from courtroom to courtroom in the same courthouse. It can be used to save travel costs and minimum fees associated with hearings at remote courthouses. It can be used for interpreting a language for which the interpreter is found

only in another state. It enables a more highly qualified interpreter from another state to be used rather than a less qualified person in Utah.

Current rules permit any type of hearing to be interpreted using distance interpreting (essentially the interpreter “attends” electronically). Rule 4-106. Whether to use distance interpreting in more complex hearings, such as trials, evidentiary hearings and oral arguments, should be left to judicial discretion. Recently, Judge McRae conducted a trial using Viack and an interpreter located in the Matheson Courthouse.

### **(b) Making it happen**

For the most part, a standard office setup for the interpreter is sufficient. Cubicles are not appropriate because of the prevalence of distracting noise. Extra isolation or insulation for the office is even better. Especially if the interpreter is not an employee, the interpreter could be at home if it offers a suitable work environment.

#### Technology Options

Regardless of the technology option used, the judge has to be extremely vigilant about only one person speaking at a time. Regardless of the technology option, the defendant should use a headset to improve sound quality and privacy. The Biamp option, or an equivalent technology, is the only one that has a built-in mode for discussions between the defendant and counsel and built-in switching from private to public interpretation.

**Telephone.** Typically, this will take one of two set-ups. Using a conference phone, the interpreter hears what is said and interprets sequentially over a single phone line. Interpretation has to be sequential because outgoing and incoming communications are on a single telephone line. There is no ability to interpret a private conversation between the defendant and counsel. A more effective set-up is to use a conference phone on one line for the interpreter to hear what is said in the proceeding and a private phone on a second line to interpret simultaneously for the defendant. If defense counsel can join the second line, the interpreter can use it to interpret private conversations between the defendant and counsel.

**Viack or equivalent.** All of the participants – judge, witness, prosecutor, defense counsel, defendant, and interpreter – need a computer with a microphone, web camera, and Viack connection. The best set-up is similar to the second telephone set-up just described. Because the audio stream suffers a delay between sites and because all of the participants can hear all of the speakers all of the time, the equivalent of the first telephone set up, using one Viack session, will experience significant difficulties, especially when the interpreter has to interpret Spanish into English for the record.

A more effective set-up is to schedule two Viack sessions: one session to which all participants except the defendant are connected; and a second session, running simultaneously, to which only the interpreter and the defendant are connected. The interpreter needs two computers to connect to both sessions; s/he hears what is said on one computer and interprets for the defendant on the other. In theory, the interpretation can be simultaneous, but the defendant will perceive a considerable delay between

hearing the English words spoken in the courtroom and hearing the Spanish interpretation. If defense counsel can join the second session, the interpreter can use it to interpret private conversations between the defendant and counsel.

**Biamp or equivalent.** This is advanced telephone technology that combines the connectivity of the two phone lines described above into a single line that enables both private and public interpretation. The interpreter controls whether the interpretation is part of the courtroom public sound system (interpreting a witness's testimony into English), for the defendant (or witness) alone, or for the defendant and counsel. Judge Pitt is using this technology in the Tooele Justice Court. We attempted to use it in the West Jordan Juvenile Court and the Tooele District Court, but it never came on-line. The system is integrated with the courtroom amplified audio system, so sound quality is better than with a telephone. There is a capital investment to buy the technology.