

1       **Rule 3-306. Court Interpreters.**

2       Intent:

3       To declare the policy of the Utah State Courts to secure the rights of persons who  
4 are unable to understand or communicate adequately in the English language when  
5 they are involved in legal proceedings.

6       To outline the procedure for certification, appointment, and payment of court  
7 interpreters.

8       To provide certified interpreters in all cases in those languages for which certification  
9 programs have been established.

10       Applicability:

11       This rule shall apply to legal proceedings in the courts of record and not of record.  
12 This rule shall apply to interpretation for non-English speaking persons and not to  
13 interpretation for the hearing impaired.

14       Statement of the Rule:

15       (1) Definitions.

16       (1)(A) "Appointing authority" means a trial judge, administrative hearing officer, or  
17 other officer authorized by law to conduct judicial or quasi-judicial proceedings, or a  
18 delegate thereof.

19       (1)(B) "Approved interpreter" means an non-certified interpreter who has fulfilled  
20 requirements established by the committee.

21       (1)(C) "Certified interpreter" means a person who has fulfilled the requirements set  
22 forth in subsection 4.

23       (1)(D) "Committee" means the Court Interpreter Committee established by Rule 1-  
24 205.

25       (1)(E) "Conditionally-approved interpreter" means a non-certified interpreter who has  
26 completed an application form and, after responding to questions about background,  
27 education and experience pursuant to subsection (6)(C), has received conditional  
28 approval from the appointing authority.

29       (1)(F) "Code of Professional Responsibility" means the Code of Professional  
30 Responsibility for Court Interpreters set forth in Appendix H.

31 (1)(G) "Legal proceeding" means a civil, criminal, domestic relations, juvenile, traffic  
32 or administrative proceeding. Legal proceeding does not include a conference between  
33 the non-English speaking person and the interpreter that occurs outside the courtroom,  
34 hearing room, or chambers unless ordered by the appointing authority. In juvenile court  
35 legal proceeding includes the intake stage.

36 (1)(H) "Non-English speaking person" means any principal party in interest or  
37 witness participating in a legal proceeding who has limited ability to speak or  
38 understand the English language.

39 (1)(I) "Principal party in interest" means a person involved in a legal proceeding who  
40 is a named party, or who will be bound by the decision or action, or who is foreclosed  
41 from pursuing his or her rights by the decision or action which may be taken in the  
42 proceeding.

43 (1)(J) "Witness" means anyone who testifies in any legal proceeding.

44 (2) Court Interpreter Committee. The Court Interpreter Committee shall:

45 (2)(A) research, develop and recommend to the Judicial Council policies and  
46 procedures for interpretation in legal proceedings and translation of printed materials;

47 (2)(B) certify court interpreters who meet minimum qualifications;

48 (2)(C) issue opinions to questions regarding the Code of Professional Responsibility;  
49 and

50 (2)(D) discipline court interpreters.

51 (3) Minimum performance standards. All certified and approved interpreters serving  
52 in the court shall comply with the Code of Professional Responsibility.

53 (4) Certification.

54 (4)(A) Subject to the availability of funding, and in consultation with the committee,  
55 the administrative office shall establish programs to certify court interpreters in the non-  
56 English languages most frequently needed in the courts. The administrative office shall:

57 (4)(A)(i) designate languages for certification;

58 (4)(A)(ii) establish procedures for training and testing to certify and recertify  
59 interpreters; and

60 (4)(A)(iii) establish, maintain, and issue to all courts in the state a current directory of  
61 certified interpreters.

62 (4)(B) To become certified an interpreter shall:

63 (4)(B)(i) prior to participation in the training program, pay a fee established by the  
64 Judicial Council to the administrative office to offset the costs of training and testing;

65 (4)(B)(ii) complete training as required by the administrative office;

66 (4)(B)(iii) obtain a passing score on the court interpreter's test(s) as required by the  
67 administrative office;

68 (4)(B)(iv) not have been convicted of a crime of moral turpitude; and

69 (4)(B)(v) have complied with the Code of Professional Responsibility if the interpreter  
70 has previously provided interpreting services to the Utah courts.

71 (4)(C) An interpreter may be certified upon submission of satisfactory proof to the  
72 committee that the interpreter is certified in good standing by the federal courts or by a  
73 state having a certification program that is equivalent to the program established under  
74 this section.

75 (5) Recertification.

76 (5)(A) Subject to the availability of funding, the administrative office shall establish  
77 continuing educational requirements for maintenance of certified status.

78 (5)(B) To maintain certified status, a certified interpreter shall:

79 (5)(B) (i) comply with continuing educational requirements as established by the  
80 administrative office; and

81 (5)(B) (ii) comply with the Code of Professional Responsibility.

82 (6) Appointment.

83 (6)(A) Certified interpreters. When an interpreter is requested or when the appointing  
84 authority determines that a principal party in interest or witness has a limited ability to  
85 understand and communicate in English, a certified interpreter shall be appointed  
86 except under those circumstances specified in subsection (6)(B), (C), or (D).

87 (6)(B) Approved interpreters.

88 (6)(B)(i) Standards for appointment. An approved interpreter may be appointed only  
89 under the following circumstances:

90 (6)(B)(i)(a) if there is no certification program established under subparagraph (4) for  
91 interpreters in the language for which an interpreter is needed,

92 (6)(B)(i)(b) if there is a certification program established under subsection (4), but no  
93 certified interpreter is reasonably available, or

94 (6)(B)(i)(c) for juvenile probation conferences, if the probation officer does not speak  
95 a language understood by the juvenile.

96 (6)(B)(ii) Court employees may serve as approved interpreters, but their service shall  
97 be limited to short hearings that do not take them away from their regular duties for  
98 extended periods.

99 (6)(B)(iii) The administrative office shall keep a list of all approved interpreters  
100 pursuant to subsection (6)(B) unless the interpreter is excluded from the list under  
101 subsection (10).

102 (6)(C) Conditionally-approved interpreters.

103 (6)(C)(i) Standards for appointment. A conditionally-approved interpreter may be  
104 appointed only under the following circumstances:

105 (6)(C)(i)(a) if there is no certification program established under subparagraph (4) for  
106 interpreters in the language for which an interpreter is needed and no approved  
107 interpreter is reasonably available,

108 (6)(C)(i)(b) if there is a certification program established under subsection (4), but no  
109 certified or approved interpreter is reasonably available, or

110 (6)(C)(i)(c) for juvenile probation conferences, if the probation officer does not speak  
111 a language understood by the juvenile.

112 (6)(C)(ii) Procedure for appointment. Before appointing a conditionally-approved  
113 interpreter, the appointing authority shall:

114 (6)(C)(ii)(a) evaluate the totality of the circumstances including the gravity of the  
115 judicial proceeding and the potential penalty or consequence to the accused person  
116 involved,

117 (6)(C)(ii)(b) ask questions as to the following matters in an effort to determine  
118 whether the interpreter has a minimum level of qualification:

119 (6)(C)(ii)(b)(1) whether the prospective interpreter appears to have adequate  
120 language skills, knowledge of interpreting techniques and familiarity with interpreting in  
121 a court or administrative hearing setting; and

122 (6)(C)(ii)(b)(2) whether the prospective interpreter has read, understands, and  
123 agrees to comply with the code of professional responsibility for court interpreters set  
124 forth in appendix H.

125 (6)(C)(iii) The procedure to conditionally approve a non-certified interpreter must  
126 occur every time the interpreter is used.

127 (6)(C)(iv) Court employees may serve as conditionally-approved interpreters, but  
128 their service shall be limited to short hearings that do not take them away from their  
129 regular duties for extended periods.

130 (6)(D) Other interpreters. An interpreter who is neither certified, approved nor  
131 conditionally-approved may be appointed when a certified, approved or conditionally-  
132 approved interpreter is not reasonably available, or the court determines that the gravity  
133 of the case and potential penalty to the accused person involved are so minor that  
134 delays attendant to obtaining a certified, approved, or conditionally-approved interpreter  
135 are not justified.

136 (7) Waiver.

137 (7)(A) A non-English speaking person may at any point in the proceeding waive the  
138 right to the services of an interpreter, but only when:

139 (7)(A)(i) the waiver is approved by the appointing authority after explaining on the  
140 record to the non-English speaking person through an interpreter the nature and effect  
141 of the waiver;

142 (7)(A)(ii) the appointing authority determines on the record that the waiver has been  
143 made knowingly, intelligently, and voluntarily; and

144 (7)(A)(iii) the non-English speaking person has been afforded the opportunity to  
145 consult with his or her attorney.

146 (7)(B) At any point in any proceeding, for good cause shown, a non-English  
147 speaking person may retract his or her waiver and request an interpreter.

148 (8) Oath. All interpreters, before commencing their duties, shall take an oath that  
149 they will make a true and impartial interpretation using their best skills and judgment in  
150 accordance with the Code of Professional Responsibility.

151 (9) Removal in individual cases. Any of the following actions shall be good cause for  
152 a judge to remove an interpreter in an individual case:

153 (9)(A) being unable to interpret adequately, including where the interpreter self-  
154 reports such inability;

155 (9)(B) knowingly and willfully making false interpretation while serving in an official  
156 capacity;

157 (9)(C) knowingly and willfully disclosing confidential or privileged information  
158 obtained while serving in an official capacity;

159 (9)(D) failing to follow other standards prescribed by law and the Code of  
160 Professional Responsibility; and

161 (9)(E) failing to appear as scheduled without good cause.

162 (10) Removal from certified or approved list.

163 Any of the following actions shall be good cause for a court interpreter to be  
164 removed from the certified list maintained under subsection (4)(A)(iii) or from the  
165 approved list maintained under subsection (6)(B)(iii):

166 (10)(A) knowingly and willfully making false interpretation while serving in an official  
167 capacity;

168 (10)(B) knowingly and willfully disclosing confidential or privileged information  
169 obtained while serving in an official capacity;

170 (10)(C) failing to follow other standards prescribed by law and the Code of  
171 Professional Responsibility; and

172 (10)(D) failing to appear as scheduled without good cause.

173 (11) Discipline

174 (11)(A) An interpreter may be disciplined for violating the Code of Professional  
175 Responsibility. Discipline may include decertification, suspension, probation or other  
176 restrictions on the interpreter's certification or qualification. Discipline by the committee  
177 does not preclude independent action by the Administrative Office of the Courts.

178 (11)(B) Any person, including members of the committee, may initiate a complaint.  
179 Upon receipt of a complaint, the committee shall provide written notice of the allegations  
180 to the interpreter. Within 20 days after the notice is mailed, the interpreter shall submit a  
181 written response to the complaint. The response shall be sent to the administrative  
182 office staff assigned to the committee.

183 (11)(C) Upon receipt of the interpreter's response, staff shall attempt to informally  
184 resolve the complaint. Informal resolution may include stipulated discipline or dismissal  
185 of the complaint if staff determines that the complaint is without merit.

186 (11)(D)(i) A hearing shall be held on the complaint if informal resolution is  
187 unsuccessful, or if the committee otherwise determines that a hearing is necessary.

188 (11)(D)(ii) The hearing shall be held no later than 45 days after notice of the  
189 complaint was sent to the interpreter. The committee shall serve the interpreter with  
190 notice of the date and time of the hearing, via certified mail, return receipt requested.

191 (11)(D)(iii) The hearing shall be closed to the public. The interpreter may be  
192 represented by counsel and shall be permitted to testify, present evidence and  
193 comment on the allegations. The committee may ask questions of the interpreter and  
194 witnesses. Testimony shall be under oath and a record of the proceedings maintained.  
195 The interpreter may obtain a copy of the record upon payment of any required fee.

196 (11)(E) The committee shall issue a written decision within 10 days from the  
197 conclusion of the hearing. The decision shall be supported by written findings and shall  
198 be served on the interpreter via first-class mail.

199 (11)(F) The interpreter may appeal the committee's decision to the Judicial Council.  
200 The interpreter shall file the notice of appeal with the Judicial Council no later than 20  
201 days after the committee's decision is mailed to the interpreter. The notice of appeal  
202 shall include the interpreter's written objections to the decision. The Judicial Council  
203 shall review the record of the committee proceedings to determine whether the  
204 committee correctly applied procedures and sanctions, and to determine whether the  
205 committee abused its discretion. The interpreter and committee members are not  
206 entitled to attend the Council meeting at which the proceeding is reviewed.

207 (12) Payment.

208 (12)(A) Courts of Record.

209 (12)(A)(i) In courts of record, the administrative office shall pay interpreter fees and  
210 expenses

211 (12)(A)(i)(a) in criminal cases,

212 (12)(A)(i)(b) in a preliminary inquiry or case filed on behalf of the state under [Title 78,](#)  
213 [Chapter 3a Title 78A, Chapter 6](#), Juvenile Courts,

214 (12)(A)(i)(c) in cases filed against the state pursuant to U.R.C.P. 65B(b) or 65C,  
215 (12)(A)(i)(d) in cases filed under ~~Title 30, Chapter 6~~ [Title 78B, Chapter 7, Part 1](#),  
216 Cohabitant Abuse Act,

217 (12)(A)(i)(e) in cases filed under Title 77, Chapter 3a, Stalking Injunctions,

218 (12)(A)(i)(f) in cases filed under ~~Title 78, Chapter 3h~~ [Title 78B, Chapter 7, Part 2](#),  
219 Child Protective orders,

220 (12)(A)(i)(g) in other cases in which the court determines that the state is obligated  
221 to pay for an interpreter's services, and

222 (12)(A)(i)(h) for translation of forms pursuant to paragraph (13).

223 (12)(A)(ii) In all other civil cases and small claims cases, the party engaging the  
224 services of the interpreter shall pay the interpreter fees and expenses.

225 (12)(A)(iii) Fees. In April the Judicial Council shall set the fees to be paid to court  
226 interpreters for the following fiscal year. Payment to interpreters shall be made in  
227 accordance with the Courts Accounting Manual. This section does not apply to court  
228 employees acting as interpreters.

229 (12)(A)(iv) Expenses. Mileage for interpreters will be paid at the same rate as state  
230 employees for each mile necessarily traveled in excess of 25 miles one-way. Per diem  
231 expenses will be paid at the same rate as state employees.

232 (12)(A)(v) Procedure for payment. The administrative office shall pay fees and  
233 expenses of the interpreter upon receipt of a certification of appearance signed by the  
234 clerk of the court or other authorized person. The certification shall include the name,  
235 address and social security number of the interpreter, the case number, the dates of  
236 appearance, the language interpreted, and an itemized statement of the amounts to be  
237 paid.

238 (12)(B) Courts not of record.

239 (12)(B)(i) In courts not of record, the local government that funds the court not of  
240 record shall pay interpreter fees and expenses in criminal cases in which the defendant  
241 is determined to be indigent.

242 (12)(B)(ii) In small claims cases, the party engaging the services of the interpreter  
243 shall pay the interpreter fees and expenses.

244 (12)(B)(iii) Fees. The local government that funds the court not of record shall  
245 establish the amount of the interpreter fees.

246 (12)(B)(iv) Expenses. The local government that funds the court not of record shall  
247 establish interpreter expenses, if any, that will be paid.

248 (12)(B)(v) Procedure for payment. The local government that funds the court shall  
249 pay the interpreter upon receipt of a certification of appearance signed by the clerk of  
250 the court. The certification shall include the name, address and social security number  
251 of the interpreter, the case number, the dates of appearance, the language interpreted,  
252 and an itemized statement of the amounts to be paid.

253 (13) Translation of court forms. Requests for translation of court forms from English  
254 to another language shall be submitted to the committee. The committee shall  
255 determine whether the form shall be translated, reviewing such factors as a) whether  
256 the English form has been approved by the Judicial Council or the Supreme Court or is  
257 in common use throughout the state, and b) whether an approved translation of the form  
258 has already been done. Forms determined by the committee to be appropriate for  
259 translation shall be submitted by the committee to a team consisting of at least two  
260 translators. In languages for which there is a certification program, translators must be  
261 certified interpreters, preferably with some translating experience. In languages for  
262 which there is no certification program, translators may be qualified interpreters with  
263 extensive court interpreting experience, and preferably with some translating  
264 experience, or a professional translation service chosen by the committee. After  
265 translation, the administrative office shall distribute the translated documents to the  
266 courts statewide.

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