

AGENDA

LANGUAGE ACCESS COMMITTEE

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84111

Executive Dining Room (1st Floor, W18A)

Friday, January 20, 2017

12:00 p.m. to 1:30 p.m.

12:00 p.m.	Welcome	Judge Romney
12:05 p.m.	Approval of Minutes (Tab 1)	Judge Romney
12:10 p.m.	Defense Counsel Member Welcome and Introduction of all Members	Judge Romney
12:20 p.m.	Language Access Program Updates and ASL Subcommittee Update	Keisa Williams
12:40 p.m.	Employee Stipend Policy <ul style="list-style-type: none">• CJA Rule 3-306.04 (Tab 2)• HR Policy 570 (Tab 3)• ALTA Report (Tab 4)	Keisa Williams
1:15 p.m.	Other Business	

Upcoming Meetings:

March 17, 2017

May 19, 2017

September 15, 2017

November 17, 2017

Tab 1

Meeting Date	Language Access Committee	
November 18, 2016	Executive Dining Room	
Members Present	Member Excused	
Judge Su Chon	Russell Pearson	
Judge Rick Romney	Jenny Andrus	
Judge Mike Leavitt	Gabriela Grostic	
Mary Kaye Dixon	Amine El Fajri	
Randall McUne		
Miguel Medina		
Megan Haney		
Michelle Draper		
Maureen Magagna		
Staff: Keisa Williams, Rosa P. Oakes		
Guests:		
Topic: Approve minutes of September 23, 2016		
<p>Randall McUne noted that his name was entered incorrectly as “Russell” and requested a correction. With that amendment, Mr. Medina moved to approve the minutes; Mr. McUne seconded the motion.</p>		
Motion: Passed unanimously		
Topic: Employee Stipend Policy		By Keisa Williams
<p>Ms. Williams explained the employee language stipend process and reviewed rule amendments she drafted to clarify the committee’s policy.</p>		
<p>In order for employees to receive a second language stipend, they must receive a passing score on the OPI. In 2013, the courts hired a nationally recognized firm, Alta, to conduct a state-wide assessment of employee staff interpreter duties and recommend a minimum passing score. The courts adopted the minimum score recommended by Alta and drafted rules limiting employees’ interpreting duties to direct services (e.g. information given at front counters or probation officers conducting meetings in a second language).</p>		
<p>Unfortunately, it was brought to Ms. Williams’ and Rosa’s attention by TCEs that some employees who have NOT passed the test are often sought to provide interpreting – both for direct services and in court. In addition, employees who have passed the test and are receiving the stipend are asked to interpret in court. Ms. Williams noted the very serious due process and court liability issues if these actions continue. Ms. Williams seeks to clarify the court’s policy in Rule 3-306 and the HR policy on stipends. Further, she aims to provide training for all judges and court staff (including stipend recipients) to curtail any potential issues.</p>		
<p>The committee agreed with Ms. Williams that court employees receiving a stipend are only authorized to provide direct services. In very limited situations they may interpret simple information such as rescheduled hearings dates/times. They should not, however, be asked to interpret in court proceedings under any circumstances.</p>		

After a lengthy discussion, it was agreed that Ms. Williams will rework the language and formatting of Rule 3-306.04(1)(F) and (2)(A) to include the suggestions made by the committee. This topic will be revisited at the next meeting.

Topic: Defense Counsel Update

By Keisa Williams

Ms. Williams updated the committee on the status of the appointment of defense counsel. The Judicial Council will be reviewing it at their next meeting.

Topic: Other Business

By Rosa Oakes

Ms. Oakes reported that some concerning issues have come to light in the recent past:

- A recommendation that a probation officer use Google Translate to translate a safety plan for a family. The committee expressed serious concerns and suggested this item should be included in training for court staff.
- An Interpreter Coordinator failing to follow the rule regarding the use of certified interpreters unless not reasonably available. This is being addressed directly with the coordinator.
- Some states are going to great lengths to secure rare language interpreters – including providing visas and travel from out of the country. Ms. Oakes suggested following the guideline set by the Dept. of Justice to “take reasonable steps to provide meaningful access.” The committee agreed.

Judge Chon moved to adjourn.

Next meeting date is January 20, 2017

Tab 2

Rule 3-306.04. Interpreter appointment, payment, and fees.

Intent:

To state the policy of the Utah courts to secure the rights of people under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. in legal proceedings who are unable to understand or communicate adequately in the English language.

To outline the procedures for appointment and payment of interpreters for legal proceedings.
To provide certified interpreters in legal proceedings in those languages for which a certification program has been established.

Applicability:

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

Statement of the Rule:

(1) Appointment.

(1)(A) Except as provided in paragraphs (1)(B), (1)(C) and (1)(D), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

(1)(B) An approved interpreter may be appointed if no certified interpreter is reasonably available.

(1)(C) A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.

(1)(D) A conditionally-approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

(1)(D)(i) the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding; and

(1)(D)(ii) appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and

(1)(D)(iii) a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.

(1)(E) The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the complexity or gravity of the legal proceeding, the potential consequences to the person of limited English proficiency, and any other relevant factor.

(1)(G)(F) The appointing authority will appoint one interpreter for all participants with limited English proficiency, unless the judge determines that the participants have adverse interests, or that due process, confidentiality, the length of the legal proceeding or other circumstances require that there be additional interpreters.

(1)(G) Court employees may not interpret during legal proceedings.

(1)(F)(H) ~~No Court~~ interpreters ~~is~~ are not needed for a direct verbal exchanges between a the person and a court staff employee if:

(1)(H)(i) the a court staff employee can fluently speak the language understood by the person,

(1)(H)(ii) the court employee has passed the Oral Language Proficiency Exam in that language, and

(1)(H)(iii) the state court employee is acting within the guidelines established in the Human Resources Policies and Procedures.

(1)(I) If a direct verbal exchange is required and the no court staff employee ~~does not meeting the requirements outlined above is available speak the language understood by the person,~~ the interpreter coordinator may appoint a certified An approved, registered or conditionally approved interpreter ~~may be appointed if the court staff does not speak the language understood by the person.~~

(2) ~~Court employees as interpreters. A court employee may not interpret legal proceedings except as follows.~~ Staff Interpreters.

(2)(A) A court may hire an employee as a staff interpreter for the court. The employee will be paid the wages and benefits of the employee's grade and not the fee established by this rule. If the language is a language for which certification in Utah is available, the

employee must be a certified interpreter. If the language is a language for which certification in Utah is not available, the employee must be an approved interpreter. The employee must meet the continuing education requirements of an employee, but at least half of the minimum requirement must be in improving interpreting skills. The employee is subject to the discipline process for court personnel, but the grounds for discipline include those listed in rule 3-306.05.

(2)(B) A state court employee employed as an staff interpreter has the rights and responsibilities provided in the Utah state court human resource policies, including the Code of Personal Conduct, and the Court Interpreters' Code of Professional Responsibility also applies. A justice court employee employed as an staff interpreter has the rights and responsibilities provided in the county or municipal human resource policies, including any code of conduct, and the Court Interpreters' Code of Professional Responsibility also applies.

(2)(C) A court may use an employee as a conditionally-approved interpreter by complying with the requirements under paragraph (1)(D) and providing notice to Human Resources and the Language Access Program Manager. The employee will be paid the wage and benefits of the employee's grade and not the fee established by this rule.

(3) Review of denial of request for interpreter. A person whose request for an interpreter has been denied may apply for review of the denial. The application shall be decided by the presiding judge. If there is no presiding judge or if the presiding judge is unavailable, the clerk of the court shall refer the application to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the denial.

(4) Waiver. A person may waive an interpreter if the appointing authority approves the waiver after determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-English speaking person, so the appointing authority may reject a waiver.

(5) Translation of court forms. Forms must be translated by a team of at least two people who are interpreters certified under this rule or translators accredited by the American Translators Association.

(6) Payment.

(6)(A) The fees and expenses for language access shall be paid by the administrative office of the courts in courts of record and by the government that funds the court in courts not of record. The court may assess the fees and expenses as costs to a party as otherwise provided by law. (Utah Constitution, Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3, 78B-1-146(3), URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and regulations and guidance adopted under that title.)

(6)(B) A person who has been ordered to pay fees and expenses for language access may apply to the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the order.

(7) Fees.

(7)(A) Every three years, the Judicial Council shall review a market survey conducted by the Language Access Program Manager and shall set the fees and expenses to be paid to interpreters during the following three fiscal years by the courts of record. Payment of fees and expenses shall be made in accordance with the Courts Accounting Manual.

(7)(B) The local government that funds a court not of record shall set the fees and expenses to be paid to interpreters by that court.

Effective May 1, 2016

Tab 3

Human Resources Policy
SECOND LANGUAGE STIPENDS 570

SCOPE

This policy applies to all court employees.

POLICY AND PROCEDURE

Minimum Qualifications.

- 1.1 The employee must have completed the New Employee Orientation prior to applying for a Second Language Stipend.
- 1.2 The employee must demonstrate the required level of proficiency on the Oral Language Proficiency Exam.
- 1.3 An employee receiving a Second Language Stipend will be subject to recertification on a periodic basis not to exceed three (3) years.

1.4 Court Executives may authorize potential employees' application to sit for the Oral Language Proficiency Exam as a condition of employment for a position where fluency in a second language is required.

Application Process.

- 2.1 All employees applying for a Second Language Stipend shall complete the following process:
 - Complete the Second Language Stipend application and Agreement with the appropriate information and approving signatures and submit to the Court Interpreter Program Coordinator; and
 - Complete and pass the Oral Proficiency Exam.
- 2.2 If an employee internally transfers from one District to another, the Second Language Stipend will not transfer with the employee. As outlined in Section 2.1, the employee must reapply for a Second Language Stipend within the new District.

Availability and Removal.

- 3.1 The Second Language Stipend is an extra benefit requested by the employee and the Court Executive based on need and it is not considered part of an employee's base salary.
- 3.2 An employee's Second Language Stipend can be reassigned, reduced or removed at any time and for any reason.

3.3 A request for a Second Language Stipend can be approved or denied based on the availability of funds and/or slots.

Usage

4.1 The Court Executive or designee shall approve and monitor all employee recipients of the Second Language Stipend.

4.2 The Second Language Stipend is subject to the following usage guidelines:

- The employee must be reasonably available and use the second language skills on a regular basis.
- The employee shall provide interpreting in a Court proceeding only as outlined in Rule ~~3-306(11)~~ 3-306.04.

Administration.

5.1 The Court Interpreter Program Coordinator is responsible for making available the appropriate forms, managing the Oral Proficiency Exam contract, and arranging for the test taking of the Oral Proficiency Exam.

5.2 The Human Resources Department is responsible for the electronic tracking of stipend recipients, positions, locations, and employment status (full time or part-time).

5.3 The application, agreement, test and test results shall be kept in the official employee personnel file housed with the Human Resources Department as well as in electronic form.

5.4 The Second Language Stipend is dispersed in each recipient's bi-weekly paycheck, with the amount based on their employment status of full time or part-time and pro-rated accordingly.

Tab 4



Final Recommendation of Minimum
Language Levels for

Bilingual Communication

for

Utah State Courts

by

ALTA Language Services

May 2, 2013



Table of Contents

INTRODUCTION	3
PROCESS.....	4
ANALYSIS	5
RECOMMENDATION.....	6
APPENDIX 1 - ANALYSIS OF THE INTERVIEWS	7
APPENDIX 2 - INTERVIEW FORM	18
APPENDIX 3 - ALTA'S LANGUAGE TESTING PROTOCOL.....	23



INTRODUCTION

The Utah State Courts employ individuals in several positions who need to communicate with Spanish-speaking clients. The Clerical, Probation, and Self-Help divisions within the Courts deal with the Spanish-speaking population in several ways, and with varying frequency. In order to make compensation decisions with regard to the bilingual positions, the Utah State Courts needed to know more about the proficiency level of Spanish being used on the job in the target positions in the Clerical, Probation, and Self-Help divisions.

ALTA Language Services, Inc. (ALTA) was contracted to perform a job analysis of the positions in which bilingual services are needed. ALTA conducted interviews with twelve employees who currently use Spanish on the job or who supervise those using Spanish on the job in the Utah State Courts. These interviews asked questions about the language-related tasks performed on the job, and also asked about specific aspects of language used on the job. The results of these interviews were analyzed so as to determine a minimum proficiency level for employees using a second language in the Utah State Courts.



PROCESS

ALTA project managers used a set of interview questions to collect information from people who work in bilingual positions or supervise those positions for the Utah State Courts. These interview questions were designed to elicit information about how language is used on the job, and the questions utilize both quantitative and qualitative measures to gather this data. Upon completion of the interviews, information was independently analyzed to determine the minimum language level acceptable for the positions.

Interviews were conducted with three individuals in each of the divisions of the Utah State Courts being analyzed (i.e., Clerical, Probation, and Self-Help), as well as one supervisor for each division, for a total of twelve employees interviewed. It was important to interview several individuals from each position, with the ideal outcome being that employees within a given position would provide similar answers to the interview questions. Additionally, standard practice involves collecting more data than is necessary to guard against the effect of outliers.

Questions were asked about various areas of language use in order to understand the range of communications used on the job, as well as the level of proficiency that is required to satisfy the needs of various tasks that bilingual employees of the Utah State Courts must complete. ALTA interviewers began the interview with a general question regarding how the employee used the second language on the job; it had been indicated to ALTA that primarily speaking and listening skills were used in the positions at the Utah State Courts, and ALTA was able to confirm this through the interviews. The questions following this were broken down into several sections, including Speaking, Listening, Vocabulary, and Grammar. A section at the end of the interview allowed for the discussion of more specialized skills that might come into play (for example, interpretation or translation), and also asked the interviewee about any comments he or she had that had not been covered in the rest of the questions. Skills for the positions were broken down into several sub-skills; this allowed ALTA to look separately at each aspect of speaking and listening comprehension during the analysis of the interview data.

The interviews and the analysis are contained in [Appendix 1](#).

The results of the analysis and a final recommendation of a minimally acceptable level were defined for each division.



ANALYSIS

Oral language skills can be broken down into the following components. Analysis of the interviews resulted in the following minimum levels for the

	Interview Analysis
Comprehension	9
Communication	9
Grammar	9
Vocabulary	9
Overall	9

The minimum level of overall oral language skill recommended for the target positions in the Utah State Courts is a 9.



RECOMMENDATION

ALTA found that the minimum language proficiency level was the same across the three positions being analyzed. An ALTA Level 9 was determined to be the minimum level of Spanish listening and speaking proficiency required to perform the tasks involved in these positions.

This level will ensure that the language skills of the Utah State Courts employees working in the Clerical, Probation, and Self-Help areas meet the current requirements that the Utah State Courts sets for providing service to its clients. This level indicates that candidates who score 9 and above on ALTA's speaking and listening evaluation pass, and those who score 1–8 do not pass.

This finding is consistent with data collected in other job analyses for positions in both legal and clerical fields. When the requirements of a position include handling and discussing sensitive information, and when a high degree of accuracy in language is essential, it is rare for the minimum language skill level to be less than a 9 on the ALTA scale.

With regard to testing, ALTA's standard speaking and listening evaluation will fit the needs of the Utah State Courts. The speaking and listening evaluation is designed to assess a candidate's global proficiency in spoken language—this includes a candidate's overall communication skill, as well as his / her listening comprehension, grammar and structure, and vocabulary. As detailed in Appendix 1, the employees interviewed at the Utah State Courts affirmed that general terminology and an overall broad vocabulary are of great importance when working with their clients; being able to draw from a number of overall communicative strategies is essential, as well. ALTA's standard speaking and listening evaluation will address these and other aspects of spoken language.



APPENDIX 1 – ANALYSIS OF THE INTERVIEWS

Twelve interviews were completed with current employees of the Utah State Courts. These interviews were reviewed as part of the process for identifying the minimum level of proficiency for oral ability in Spanish for Clerical, Probation, and Self-Help positions in the Utah State Courts.

The Interview Process

The interviews all followed the same sequence of questions (Appendix 2). Additional questions were occasionally asked when more clarification was needed. The initial questions covered the interviewee's opinion of the job itself and the general language skills required to perform the job. The bulk of the questions were designed to gain input on the four areas that comprise oral capability:

- 1 COMPREHENSION – the ability to understand what is said by others
- 2 COMMUNICATION – the ability to communicate ideas to others
- 3 GRAMMAR – the ability to use the full range of language structures
- 4 VOCABULARY – the ability to use a broad range of words

At the end of the interview, each interviewee was asked to select a minimum language performance level on a scale of 1 (Beginner) to 12+ (Superior Native Fluency) for bilingual employees in Clerical, Probation, and Self-Help positions in the Utah State Courts. The interviewees were given general descriptions of the ALTA levels and then chose the skill level that each felt corresponded to the duties that the employee performs.

General Description of the Interviews

Interviews were conducted by Lauren Hopkins, ALTA's Director of Test Development, and Jennifer Steele, a Project Manager in the Testing department. Both Ms. Hopkins and Ms. Steele have conducted and analyzed numerous job analyses for clients in a variety of industries. Each interview lasted between 30 and 45 minutes. For the most part, interviewees within a division responded similarly on the questions; similarities were also observed across the divisions within Utah State Courts. The participants in the interviews were:



Clerical: Judicial Assistant Nancy Garcia, Judicial Services Representatives Esmerelda Blanco and Destin Christiansen, as well as Clerk of Court Maureen Magagna.

Probation: Probation Officers Cassurie McCairns, Michelle Carter, and Mikelle Ostler, as well as Chief Probation Officer Branden Putnam.

Self-Help: Self-Help Lawyers Jessica Samowitz, Susan Vogel, and Pleasy Wayas, as well as Mary Jane Ciccarello, the Director of the Self-Help Center.

■ Interview Details

Questions 1 through 3 were to identify the interviewee, determine the interviewee's job title, and gain permission to take notes during the interview.

Questions 4 through 11 focused on job description and general language requirements for the job. All interviewees noted that speaking and listening were the primary language skills used on the job; employees expressed the split between oral skills and written skills as a percentage, and most employees stated that at least 90% of their second-language tasks were performed using oral skills only. The employees in the Self-Help division that assisted clients via e-mail and text message gave a lower percentage: about 60% of their second-language tasks were completed with oral skills, with the other 40% of their second-language tasks requiring them to read and write in Spanish.

Interviewees described the importance of the proper use of spoken language in the course of their daily work to be "very important" or "absolutely essential." As one of the Probation Officers, Michelle Carter, noted, she and her clients are dealing with legal issues, so it is critical to have the information correct. Ms. Carter and others mentioned that they were often the first contact at the Utah State Courts for many of their clients, and so it was important that they make the legal process less confusing for their clients.

The interviewees discussed the types of communicative skills used in their conversations with clients. The answers to this question varied depending on the division in which the employee worked. Probation employees noted that "interviewing" was a skill they had to exercise when they worked with a client for the first time, as they would need to gain a lot of specific information from the client. Employees in the Self-Help division also needed to use interviewing skills, as they need to determine why the client is requesting their assistance and what steps the client has taken so far. Employees in all divisions said that their most



frequently used skill was that of providing information. For Probation employees, this involves explaining the rules of probation to their clients and telling them what they can expect when they go to court. For Self-Help employees, this involves explaining what resources the Utah State Courts can provide to individuals representing themselves in court. Employees in all positions noted that difficult situations do arise in communication, though they are fairly rare. For example, Pleasy Wayas, a Self-Help Center Attorney, said that she sometimes encounters individuals who are frustrated with their particular case and want more help than the Self-Help Center can provide. In cases like these, she said, the Self-Help Center Attorney must avoid giving specific legal advice, and may need to find a different way to explain the resources available from the Self-Help Center.

The employees interviewed generally agreed that persuasive speaking skills did not come into play in their communicative tasks very often. Clerical employees, in particular, did not have examples of situations in which persuasive speech would be needed. The Probation Officers interviewed described a few situations that could require persuasion—for example, a juvenile offender’s parent who needed to be convinced to be more involved in the legal process. However, the Probation Officers said that these situations did not come up often.

Question 10 asked about the ratio of speaking to listening in a typical conversation experienced by a bilingual employee of the Utah State Courts. The Self-Help Center employees said that their conversations are fairly evenly split between listening and speaking. The employees working in Probation said that the ratio of listening to speaking varied depending on the client and the conversation—for example, in an intake visit, the Probation Officer asks a lot of questions, but the client dominates the conversation by providing a large amount of information. On subsequent meetings, though, the Probation Officer may need to explain court procedures to the client, in which case the Probation Officer is doing much more speaking than listening. The Clerical employees were split on this question, with two of the interviewees (the Judicial Assistant and the Clerk of Court) stating that the court employee generally speaks more than the client, and the other two employees (the Judicial Services Representatives) stating that the client generally speaks more often than the court employee. This split may be due to the differences in job descriptions and tasks.

Questions 12 through 18 were aimed at the listening comprehension requirements for bilingual employees of the Utah State Courts. Most of those interviewed agreed that the majority of their clients use slang and regional expressions. Another observation brought up often was that many clients are not well-educated in their native Spanish, and thus may not use proper grammar and



structure. The clients' speech was described as "very basic," and employees noted that their clients did not use legal terminology or other specialized terminology at all. Nancy Garcia, a Judicial Assistant in the Clerical division, stated that a particular challenge of her job was trying to determine the region that a given client was from; she deals with walk-in clients, many of whom are representing themselves in court, and she stated that she must first figure out the particular type of regional Spanish a given client is speaking before beginning to answer the client's specific questions. Thus, it is important for court employees to have a wide range of vocabulary, and to have an understanding of the different versions of Spanish that clients speak. Ms. Garcia stated that she did not usually have a problem determining the regional version of Spanish being spoken, that it was just a matter of listening carefully. Like the other interviewees, she mentioned that most of the clients she speaks to are not well-educated, and thus use very basic sentence structures, vocabulary, and grammar.

When reflecting on the subjects that people discuss, the employees agreed that the topics discussed can be both simple and complex. Examples of simple topics included explaining the uses of common forms, finding information on the courts' website, and describing certain resources that are available to clients. Complex topics cited by the interviewees included legal issues that involved many people or events, particularly cases that had been progressing for a long time, and might involve the laws of both the United States and Mexico. One of the Self-Help Attorneys, Susan Vogel, said that even some of the seemingly complex issues become simpler over time, because many of the same questions come up frequently (her examples: what to do when one is being evicted; what to do when one is being sued by a credit card company; how to proceed with divorcing one's spouse).

The employees stated that while there are a variety of accents, Mexican Spanish is the dominant form of Spanish. Clients generally speak at a normal rate, and all of the employees said that their clients were easy to understand. Some clients use idioms, slang, and regional expressions, but these were not indicated to pose a problem to the interviewees. As Ms. Wayas said, most of the clients are used to dealing with non-native Spanish speakers, and they are comfortable with rephrasing their statements to include more standard expressions.

Questions 19 through 24 focused on the language communication requirements for the job. The employees of the Utah State Courts spend the bulk of their conversations explaining and responding to different, client-specific situations. In some instances, the employee may have a specific set of information that he / she needs to acquire from the client—for example, the Probation Officers' intake appointments generally follow a pattern because the Officer needs to elicit



certain information from the client. In many instances, though, there is a back-and-forth discourse between the employee and the client as the client requests information and the employee provides answers or points the client toward available resources. Both the Clerical and Self-Help employees stated that they must be careful to avoid giving specific legal advice while they are assisting clients. In the Clerical division, in particular, the employees frequently need to communicate to clients that they are not authorized to give legal advice, and instead point the client toward the resources that fit his / her particular issue. In all cases, the interviewees emphasized that ensuring their speech was clear and accurate was extremely important.

Questions 25 through 30 asked about grammar. All of the interviewees felt that correct use of grammar is crucial as it relates to the communication and comprehension of correct information to the clients. The employees were in agreement that mistakes were unacceptable if they caused misunderstanding between the employee and the client. They said that some small mistakes were allowed, such as errors with gender or the subjunctive mood. Those interviewed also said that nearly all of their information could be conveyed using only simple verb tenses, and that more complex tenses were rarely necessary. The employees erred on the side of formality overall, with several employees stating that they were the first people encountered by those entering the court building, and thus they wanted to be an effective representative of the Utah State Courts.

Questions 31 through 33 asked for the vocabulary requirements for an employee of the Utah State Courts. Though the interviewees thought that a standard vocabulary is sufficient for most situations, they also emphasized the need to be able to explain legal concepts in common terminology.

Question 34 focused on the interviewees' view of what minimum performance level would be acceptable on a 1 (Beginner) to 12+ (Superior Native Proficiency) scale. A document showing the ALTA language proficiency scale was sent to the interviewees ahead of time so that they could read the level descriptors and compare them against the difficulty of the language tasks they faced on the job. Answers on this question varied slightly, but overall the interviewees were in agreement that a score between ALTA Level 8 and Level 10 would be sufficient for a bilingual employee working in one of the given positions. Mary Jane Ciccarello, the Director of the Self-Help Center, indicated that an ALTA Level 8 would almost be sufficient, but for the last line of the level descriptor which indicated that the speaker at that level makes some mistakes that could result in misunderstanding between the speaker and the listener.



Question 35 focused on other language skills required to perform the target positions in the Utah State Courts. The frequency that these skills were used varied from job to job, though some skills came up rarely across the board, such as document translation. Ms. Garcia, the Judicial Assistant, stated that oral consecutive interpretation came up somewhat frequently in her position, but it was a less frequent skill in other positions.

The Probation Officers dealt with sight translation in their work (i.e., reading a document in the source language and speaking about it in the target language), with the Officers interviewed asserting that they needed to be able to do this for their intake appointments, when they are working with a lot of paperwork. Probation Officers also need to be able to summarize in written English what a client has just spoken about in Spanish. The Probation Officers emphasized that for both of the above skills, the accuracy of the information was more important than the formality of the speech or writing.

In the Self-Help and Clerical positions, as well as in the Probation positions, summarizing was noted as an important skill. The employee needs to be able to listen to a client's issue and then repeat the information to him / her for confirmation and clarification. This skill involves both listening comprehension and clarity of speech.

The final question (36) requested additional comments from the interviewee. Several of the interviewees mentioned that there were some resources available in Spanish on the Utah State Courts websites, and that a few of the standard forms used had been translated into Spanish; employees can refer their clients to these resources and eliminate steps of summarizing and sight translation when the resources apply to their clients' issues. One of the Self-Help Attorneys, Jessica Samowitz, commented that she also sends some e-mails in Spanish to clients; however, this is not a standard task for all Self-Help Attorneys.



■ Analysis of Interviews

To perform bilingual tasks in the Utah State Courts, some level of performance in each of the following language skills is required:

- Comprehension of a spoken second language
- Speaking the second language

This analysis is to identify the minimum level of second-language capability a bilingual employee of the Utah State Courts must have to perform at the necessary level each day.

COMPREHENSION OF SPOKEN COMMUNICATION

Comprehension consists of three elements:

- **COMPREHENSION - SCOPE** - How wide is the range of comprehension?
- **COMPREHENSION - SPEED** - What native-speaking rate can be understood by the candidate?
- **COMPREHENSION - STRUCTURE** - What complexity of speech can be understood?

COMPREHENSION - SCOPE: Clients speak about specific legal matters, but at a layperson's level. Slang and/or regional or colloquial expressions are often used; professional or legal terminology is generally not used.

Comprehension - Scope - Recommended Level: 9 Candidate has a good understanding of complex structures and has only a little difficulty with fast speech and some idioms.

COMPREHENSION - SPEED: Clients speak at a variety of speeds, though none at an unreasonably slow or fast rate.

Comprehension - Speed - Recommended Level: 9 Candidate is able to understand natives speaking at normal rates most of the time but has some difficulty if speech is very fast.

COMPREHENSION - STRUCTURE: Clients generally use everyday language to describe their legal issues and ask questions.

Comprehension - Structure - Recommended Level: 9 Candidate has a good understanding of common grammar and a good understanding of



more advanced structures.

Overall - A Level 9 requirement best describes the minimum level for comprehension of the second language, considering the importance of accurate comprehension of the clients' legal issues.

SPEAKING THE SECOND LANGUAGE

Speaking requires skills in communication, grammar and vocabulary.

Speaking consists of eight elements:

- **COMMUNICATION - ACCENT/PRONUNCIATION** - What degree of non-native accent and pronunciation is present?
- **COMMUNICATIONS - SCOPE** - How easily can the individual express ideas?
- **COMMUNICATION - SPEED** - How rapidly can the individual speak and how much use of hesitations?
- **COMMUNICATION - STRUCTURE** - How well does the individual use the complexity of the language?
- **GRAMMAR - STRUCTURE** - How well does the individual uses complex structures?
- **GRAMMAR - NOUNS** - How well does the individual use proper gender and cases (where applicable)?
- **GRAMMAR - VERBS** - How well does the individual use correct conjugations, subject-verb agreement, mood and voice?
- **VOCABULARY - SCOPE** - How wide is the range of vocabulary and how precise?

COMMUNICATION - ACCENT/PRONUNCIATION: Interviewees did not feel that an accent would affect the employee's ability to do the job as long as they were able to communicate clearly and effectively.

Communication - Accent/Pronunciation - Recommended Level: 9

Candidate's accent may be noticeably non-native; pronunciation is good with only occasional errors.

COMMUNICATION - SCOPE: Employees at the Utah State Courts must be able to speak on a variety of legal matters.

Communication - Scope - Recommended Level: 10 Candidate has a good capability to express himself/herself on a wide variety of topics but has a little difficulty with subtleties and idiomatic expressions.



COMMUNICATION - SPEED: Interviewees stated that employees of the court should be able to speak at a rate similar to their clients', but that speed of speech is not as important as being understood by them.

Communication - Speed - Recommended Level: 9 Candidate speaks at a conversational rate with some pauses which have a minimal effect on continuity.

COMMUNICATION - STRUCTURE: Court employees must discuss a variety of concepts, both simple and complex, but must be able to state them in a way that their clients understand. Most of the interactions can be handled with simple structures.

Communication - Structure - Recommended Level: 9 Candidate can express himself/herself using a variety of structures, and with few mistakes in usage.

GRAMMAR – STRUCTURE: Most situations do not require employees of the Utah State Courts to use complex grammar, but there are a few occasions where complex verb tenses may be necessary to explain situations fully.

Grammar - Structure - Recommended Level: 9 Candidate has a good knowledge of the language's complex structures, but mistakes are sometimes made.

VERBS: Court employees are not often required to use advanced tenses, but those interviewed felt that mistakes in subject-verb agreement and / or verb conjugations could lead to crucial misunderstandings and were therefore unacceptable.

Grammar - Verbs - Recommended Level: 10 Candidate makes few errors in verb use with difficult conjugations, agreement, mood, and voice, but these errors should not cause misunderstanding.

NOUNS: Interviewees noted some mistakes in the gender of nouns and in noun-adjective agreement occur. It was generally agreed that this was not a problem as long as the speaker corrected himself / herself and that the mistake did not cause misunderstanding.

Grammar - Nouns - Recommended Level: 9 Candidate has a good familiarity with the gender and case system of nouns but makes some mistakes.



VOCABULARY - SCOPE: The employees interviewed stated that a wide vocabulary was helpful because clients sometimes need legal concepts explained to them in different ways.

Vocabulary - Scope - Recommended Level: 9 Candidate displays a broad range of vocabulary, though with some weaknesses in advanced areas.

Overall - The level required for comprehending and speaking the second language is a 9. A bilingual employee of the Utah State Courts should have a minimum ability of a 9 in a majority of areas of spoken language.



■ Overall Assessment

The nature of the language requirements of the target positions, based on the analysis of the employee interviews, is the combination of the following areas:

	Interview Analysis
Comprehension	9
Communication	9
Grammar	9
Vocabulary	9
Overall	9

The interviewees' response to the appropriate level averaged 10.0 for the target positions at the Utah State Courts. This is very much in agreement with the results of the analysis.



APPENDIX 2 – INTERVIEW FORM

Interview for Analysis of Language Testing Level

This is the form for gathering information from an interview of a client. The interview's purpose is to identify the minimum level of language skills that are needed to perform a job.

After contacting the client, start the recording and conduct the interview.

1. Explain the reason for the interview: to gain user information as part of the process of identifying the minimum level of language skills that are needed to perform a job.
2. Do I have your permission to record our conversation? _____
3. What is your name? _____
4. What is your position? _____
5. Please describe how and where you use your organization's second language on the job.

6. Of the time spent using the second language, what percentage is:
Oral ___%
Reading/Writing ___%
Other ____%

ORAL SKILLS

7. On a scale of 1 – 5, with 1 being "Not at all important" and 5 being "Absolutely essential," how would you describe the importance of the proper use of the spoken language in doing this job?

8. What kinds of subjects are discussed in these conversations, and how often?
___ General ___%
___ Internal company matters ___%
___ Personal ___%
___ Client-customer specific ___%
9. What are the topics that are discussed?



10. Who does most of the talking? What percentage of a conversation is your part, and what percentage is the part of the average client?

11. What type of conversation is it, and how often do you use each type?

- __ interview ___%
- __ providing information ___%
- __ convincing ___%
- __ handling difficult situations ___%
- __ general ___%

Please provide some examples.

Listening - Comprehension

12. As a percentage, how often do your clients use colloquial expressions and idioms? What percentage of your clients use such expressions? Examples:

13. As a percentage, how often do your clients use terminology that is not used by the public in general? What percentage of your clients use such terminology? Examples:

14. Are the subjects discussed by your clients simple or complicated? What would be an example of a simple/complicated subject?

15. As a percentage, how often do your clients use complex sentences, for example describing possible situations or actions that started in the past and are still continuing? What percentage of your clients use such language? Examples:

16. Are there a variety of accents that your clients have or does one predominate? What percentage of your clients have that accent?

17. Do your clients speak quickly, normally or slowly?

18. On a scale of 1 – 5, with 1 being “Very easy” and 5 being “Extremely difficult,” how easy is it to understand what your clients are saying?



Speaking - Communication

19. What types of communication are you using when you speak to clients, and how often do you use each type?
- ___ Explaining ___%
 - ___ Convincing ___%
 - ___ Following a planned progression ___%
 - ___ Responding to many different situations ___%

Examples: _____

20. How easy or complicated is the information you have to say? What would be an example of simple/complicated information that you have to communicate?

Examples: _____

21. As a percentage of your typical conversation, how often do you use complex grammar when speaking to clients?

22. On a scale of 1 – 5, with 1 being “Not at all important” and 5 being “Absolutely essential,” how important is your clarity of speech and why?

23. On a scale of 1 – 5, with 1 being “Not at all important” and 5 being “Absolutely essential,” how important is the accent you have when speaking to your clients and why?

24. How quickly do you need to speak when talking with clients?

Speaking - Grammar

25. On a scale of 1 – 5, with 1 being “Not at all important” and 5 being “Absolutely essential,” how important is it to speak with good grammar when speaking to a client? _____

26. What kinds of mistakes are acceptable in grammatical usage?



27. Is subject-verb agreement always necessary when speaking?

28. Can everything be expressed using only the present, past and future tenses?

29. Are errors allowed with nouns in terms of gender, articles and adjectives?

30. On a scale of 1 – 5, with 1 being “Not at all important” and 5 being “Absolutely essential,” how important is the use of formal or informal forms of address?

Speaking - Vocabulary

31. On a scale of 1 – 5, with 1 being “Not at all important” and 5 being “Absolutely essential,” how important is the range of vocabulary used with clients?

32. As a percentage, how often do you need to use slang or idioms when talking to clients?

33. As a percentage, how often do you use specialized terminology when speaking with clients? As a percentage of your conversation, how often do you need to use such terminology?

Overall Oral

34. Having reviewed the scale provided to you by ALTA, what oral skill level would you recommend for this job? Why?



OTHER

35. What other language skills are required to perform this job, and what percentage of your time do you use them?

___ Reading aloud ___%

___ Writing in the target language what you hear in the target language (Transcribing) ___%

___ Summarizing in the target language what you hear in the target language ___%

___ Interpreting ___%

___ Translating ___%

___ Reading in the target language and speaking in the first language ___%

___ Reading in the first language and speaking in the target language ___%

___ Listening in the target language and writing in the first language ___%

___ Listening in the first language and writing in the target language ___%

SUMMARY

36. What additional comments do you have?



APPENDIX 3 – ALTA’S LANGUAGE TESTING PROTOCOL

ALTA performs thousands of language tests each year using its SPOKEN LANGUAGE EVALUATION™ (SLE) process. The SLE process consists of several important elements that assure that the result reflects the candidate's capability to speak and understand the language.

■ Identification of the Performance Levels

There are no worldwide standards on defining performance in speaking and understanding a language. The first step is to identify the performance levels. What ALTA has done is to select the two standards that are applied to many different languages and combine them into one standard. The U.S. Government's Interagency Language Roundtable (ILR) and The American Council for Teaching Foreign Languages (ACTFL) standards are both designed to apply to all languages. ALTA has combined these two standards into a twelve level scale that gives sufficient separation of performance at both the lower and upper ends of the scale. The ALTA performance or skill levels are shown below:

Level	General Description
1	A level 1 speaker has no ability whatsoever in the language. He/She cannot understand anything and can convey nothing.
2	A level 2 speaker can understand isolated words and simple expressions. He/She can convey isolated words or simple expressions and memorized sentences.
3	A level 3 person can understand and express simple sentences using subjects and verbs in the present tense. The range of vocabulary is limited to elementary needs and some basic courtesies.
4	The level 4 person can understand basic sentences around the immediate setting as well as basic questions. He/She can express simple ideas using the present tense and may occasionally use other simple tenses. He/She can convey basic information, but has difficulty even in basic conversations.
5	A person at a level 5 has the ability to participate in basic conversations. The subjects are routine in nature and tend to be repetitive, for example weather. A level 5 speaker uses primarily the present tense and cannot use advanced tenses, thus is very restricted on expressing and understanding any subject other than what is most familiar to him/her. Speech is slow, and he/she requires more rephrasing and repetition to understand a native speaker.
6	A level 6 person can use and understand the present, past and future tenses with some errors. He/She does not use advanced tenses. He/She can easily participate in a conversation on basic subjects like weather, but not in a general conversation. He/She usually cannot understand normal native rates of speech.



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7	<p>A person at a level 7 cannot easily participate in general conversations. He/She can participate in conversations that are routine or on topics that are well known to the person. He/She will have trouble with a native speaker's normal pace. He/She will use simple tenses with a few errors, but will avoid advanced tenses. A candidate at this level in a general conversation will cause misunderstandings between himself/herself and the listener based on lack of ability to convey clearly his/her message.</p>
8	<p>A person at a level 8 can participate in general conversations surrounding routine and topics in most social and work-related settings. He/She will have trouble with some normal speed conversations and with topics that are more advanced or specialized. He/She may lack the capability to speak at a normal speed, and will not use advanced grammatical structures or will make many mistakes. A candidate at this level will potentially cause misunderstandings between himself/herself and the listener based on some lack of ability to convey clearly his/her message.</p>
9	<p>A person at a level 9 can successfully handle in-depth conversations in the target language, on a broad range of subjects and at a normal rate of speech. He/She may have difficulty understanding some slang or idioms or some advanced grammatical structures, but can determine the meaning of what is said by the context of the discussion. When speaking, a person at a level 9 can express himself/herself over a broad range of topics at a normal speed. He/She may have a noticeable accent and will make grammatical errors, for example with advanced tenses, but the errors will not cause misunderstanding to a native speaker.</p>
10	<p>A person at a level 10 can handle all of the tasks that a level 9 can, with the addition of demonstrating skills such as selling and persuasion. He/She can successfully handle in-depth client questions, and does not require as much contextual support for understanding of slang and idioms. A person at this level is able to select vocabulary that conveys a finer shade of meaning with more precision than a level 9 and can better support his/her opinions. Errors in speech are few, are limited to advanced grammatical situations and do not affect understanding.</p>
11	<p>A person at a level 11 is nearly fluent. He/She can handle a wide variety of communicative tasks with finesse. His/her communication is close to that of a well-educated speaker, and only encounters difficulty if speech is highly abstract. Errors in speech are very few, are limited to advanced grammatical situations and do not affect understanding.</p>
12	<p>The level 12 oral skills are equivalent to well-educated native fluency. The person can understand everything said in the language and can speak with precision and finesse using the full range of grammar and vocabulary. Some weakness may occur with the use of idiomatic and colloquial expressions. A non-native or regional accent may be present.</p>
12+	<p>Level 12+ is a well-educated, distinguished speaker with superior native fluency. A person at this level not only speaks in a native-like manner and is perceived as native, but can express himself or herself articulately on any subject.</p>



■ Identification of the Assessment Categories

The ALTA evaluation process assesses the level of skill in two areas: comprehension and speaking. These two categories are subdivided as shown below:

COMPREHENSION

- **COMPREHENSION – SCOPE:** How wide is the candidate's range of comprehension?
- **COMPREHENSION – SPEED:** What speed of talking by a native speaker can the candidate understand?
- **COMPREHENSION – STRUCTURE:** What complexity of speech can the candidate understand?

SPEAKING

- **COMMUNICATION – ACCENT:** What degree of non-native accent and pronunciation does the candidate have?
- **COMMUNICATION – SCOPE:** How easily can the candidate express ideas?
- **COMMUNICATION – SPEED:** How rapidly can the candidate speak and how much does the candidate hesitate?
- **COMMUNICATION – STRUCTURE:** How well does the candidate use the complexity of the language?
- **GRAMMAR – NOUNS:** How well does the candidate use proper gender and cases (where applicable)?
- **GRAMMAR – STRUCTURE:** How well does the candidate use complex structures?
- **GRAMMAR – VERBS:** How well does the candidate use correct conjugations, subject-verb agreement, mood and voice?
- **VOCABULARY:** How wide is the candidate's range of vocabulary and how precise?

The questions following each subdivision identify in practical terms what each subdivision means. In total the subdivisions identify the range of capability needed to comprehend or speak a language.

■ Determining a Candidate's Performance in Each Category

ALTA uses a testing procedure that uses prepared questions in the target language that are asked by a live, native-speaking evaluator. The questions are designed to cause the candidate to use the full range of the target language in answering the questions. The questions are either personal or general in nature.



Two examples are:

- What did you have for breakfast this morning?
- How do you think education will change in the next ten years?

Twenty-three questions are asked. Each question is selected randomly by computer from a different pool of hundreds of questions in the target language. For example, one pool would be questions that require the candidate to use the past tense. The evaluator does not know the questions in advance rather he/she sees the question for the first time on a computer screen during the test. A sufficiently large number of questions are in each pool so that the candidate could be asked a question on a wide variety of subjects. This eliminates the possibility that the candidate can anticipate the questions and prepare answers in advance. All questions have been reviewed by the Human Resource management of two U.S. Fortune 500 companies to insure that no improper questions are asked from a discriminatory viewpoint.

The candidate simply answers each question. If requested, the evaluator will repeat the question or rephrase the question. The evaluator will also encourage the candidate to give long enough answers so that a representative sample of the candidate's speech is given.

The evaluator is a native speaker of the target language. For ALTA this means that the evaluator was born, raised and educated at the university level in the target language culture. All ALTA evaluators are first language speakers of the language they are testing. This eliminates any possibility that the person being tested would perform at a higher skill level than the evaluator. The evaluation session is recorded.

Following the session the evaluator determines the skill level of the candidate in each category. ALTA has developed specific criteria that guide the evaluator in placing a candidate's performance at the proper level. An example of these criteria is below:



COMPREHENSION - SCOPE - How wide is the candidate's range of comprehension?	
1	The candidate displays almost no comprehension in the language.
2	The candidate can only understand very commonly used words, as well as basic expressions such as greetings.
3	Candidate can only understand short, quick phrases and words, particularly where there is context to aid comprehension.
4	Scope of comprehension is limited; the candidate is able to understand the main ideas of basic topics.
5	Scope of comprehension is limited; the candidate is able to understand basic topics and routine tasks.
6	The candidate understands the main ideas and some details of common subjects; repeating and rephrasing are often needed.
7	The candidate understands the main ideas and some details of common subjects; repeating and rephrasing are sometimes needed.
8	The candidate has a good understanding of general subjects but is very limited with advanced subjects; repetition is occasionally needed.
9	The candidate has a general understanding of complex structures but has much difficulty with fast speech and advanced topics.
10	The candidate has a good understanding of complex structures but has difficulty with fast speech and some idioms.
11	The candidate understands a wide range of speech but experiences a few problems if the speech is very fast or complex.
12	The candidate understands a wide range of speech at any speed. Any comprehension issues that occur are with highly specialized topics.
12+	The candidate understands a wide range of speech at any speed and complexity.

Each evaluator is trained using recorded audio and/or video sessions of real evaluation sessions from ALTA's archive of thousands of language evaluations. Category scores are calculated and an overall score is assigned by the evaluator.

The tests are given by telephone from ALTA's central office in Atlanta, Georgia, USA. This allows ALTA to maintain tight management control and security over the testing process.



■ Score Reporting and Management

All scores are entered during the scoring process into ALTA's database. There is no opportunity for transcribing errors or alterations to the score to be made. Only ALTA management personnel have access to the database. The test results are provided directly from the ALTA database to the organization's administrative contact by email or fax the next business day. Results are not provided directly to the candidate by ALTA except in the case of tests done for individuals not associated with an organization. The recorded test performance is placed on a CD-ROM(s) for archiving purposes. ALTA keeps a record of every evaluation including the candidate's information (name, etc.), test date, language tested, the questions asked, the evaluators name, the score reported, the evaluator comments, and an archival record of the audio and/or video.

■ Score Review Procedure

Occasionally there is a request by the administrative person of the funding organization to review the test score because there was a complaint that the score was too high or too low. A specific review process is initiated. The review process is performed by ALTA at no charge to the requesting organization. Historically, approximately one percent of ALTA's test scores have been reviewed.

The review process consists of a review of the recorded evaluation session by two evaluators. If possible, one is the original evaluator, who re-scores the performance versus the criteria. A second evaluator also reviews the recorded session and independently scores the performance. Any differences in score are resolved and the reviewed score is reported to the administrative contact. Reviews normally take two business days.