

**Language Access Committee**  
Matheson Courthouse  
Executive Dining Room  
450 South State St.  
Salt Lake City, Utah 84114

November 16, 2018

**Members Present**

Yadira Call  
Judge Su Chon  
Michelle Draper – Chair  
Monica Diaz  
Mary Kaye Dixon  
Amine El Fajri  
Megan Haney  
Chris Kunej  
Judge Michael Leavitt  
Randall McUne  
Russ Pearson  
Judge Kelly Schaeffer-Bullock

**Members Excused**

Lynn Wiseman

**Staff**

Kara Mann

**Guests**

**(1) Welcome.**

Randall McUne welcomed the committee to the meeting, and noted Michelle Draper would be late.

McUne then addressed the September 21, 2018, minutes. Judge Kelly Schaeffer-Bullock noted a typo on page three of the minutes. With the amended changed, Judge Schaeffer-Bullock moved to approve the minutes. Judge Michael Leavitt seconded the motion. The motion carried unanimously.

**(2) English Written Exam Policy**

Kara Mann reminded the committee that at the last meeting the committee voted to limit the number of attempts a candidate has to pass the English Written Exam. Ms. Mann presented the proposed drafted policy for the committee to consider. Ms. Mann advised the policy needed to address scenarios when a candidate reschedules or does not show at the time of the exam.

Mr. McUne suggested including language that exceptions to the policy on the number of attempts allowed will be granted rarely. Michelle Draper asked what the standard would be for the committee to grant an exception. Judge Schaeffer-Bullock suggested since interpreters pay a fee to take the exam, they should not be penalized an attempt if they do not show. Judge Leavitt agreed and suggested interpreters forfeit the registration fee but not an attempt if they do not show. Yadira Call asked if someone not showing up takes the spot of another due to limited number of spaces.

Ms. Mann advised that currently space isn't an issue. Megan Haney agreed that since the candidates lose their registration fee if they do not show up, they should not be assessed one of their two attempts at the exam.

Ms. Draper asked if candidates sign a form confirming the test environment was not a factor after the exam so that they cannot then appeal on the grounds of the test environment. Judge Schaeffer-Bullock advised such a form could be used as a safety net. Monica Diaz asked if exceptions should be granted only when the circumstances can be verified. Judge Leavitt suggested including language on appropriate exceptions in the policy. Ms. Mann asked the committee if exceptions should be granted at all. Judge Leavitt suggested including language granting an exception is at the sole discretion of the committee so that appropriate exceptions would not need to be defined. Ms. Haney suggested removing exceptions as an option. Judge Su Chon agreed and questioned the quality of the interpreter if they are unable to pass the exam with two attempts.

Ms. Draper summarized the ongoing discussion that the committee agrees a candidate will not be penalized an attempt for not showing up, and possible exceptions will not be defined but left to the discretion of the committee. Ms. Diaz expressed exceptions should not be granted if not showing up is not counted as an attempt. Judge Chon suggested leaving exceptions in the policy while clarifying it has to be extraordinary circumstances to warrant an exception. Chris Kunej motioned to include exceptions in the policy for extraordinary circumstances. Mr. McUne suggested clarifying an exception can be granted only for the number of attempts allowed.

Judge Leavitt motioned to approve the guidelines with the following amendments: change 3.G to state it is an attempt if the exam is started but not finished, and exceptions would be limited to extraordinary circumstances at the discretion of the committee. Judge Chon suggested allowing the Program Coordinator to first have the discretion to grant an exemption on the number of attempts allowed for any straightforward claims with proof, while passing on any other requests to the committee. Ms. Call seconded the motion with Judge Chon's amendment. The motion passed unanimously.

### **(3) Guidelines for Conditionally-Approved Interpreters**

Ms. Mann shared an email was sent to the Interpreter Coordinator in the Fourth District regarding an interpreter who had never interpreted in court before. Judge Schaeffer-Bullock advised it appeared from the email that the judge thought he had a certified interpreter when it was actually a conditionally-approved interpreter. Judge Schaeffer-Bullock questioned if judges are being informed on the interpreter's credentials that come into their courtrooms. Mary Kaye Dixon observed the conditionally-approved form should flag for the judge that the interpreter is conditionally-approved. Judge Chon advised sometimes she does not know if an interpreter is even going to be present until right before the proceeding begins. Mr. McUne asked if the form is being overlooked when the form is given to judges electronically. Judge Schaeffer-Bullock asked if the interpreter credentials could be flagged for the judge in the case management system. Mr. McUne asked if conditionally-approved interpreters could be required to watch an interpreter, even if it's only for one hour, before being allowed to interpret in court. Amine El Fajri agreed conditionally-approved interpreters should not be allowed to interpret without an introduction to

court interpreting. Ms. Draper asked if there was a YouTube video that we could share on the basics of court interpreting. Ms. Diaz advised the timing before a scheduled hearing could be a factor. Judge Leavitt suggested having conditionally-approved interpreters come in early to watch court proceedings, even if there isn't an interpreter to observe. Mr. McUne suggested strongly encouraging conditionally-approved interpreters to come early to watch court proceedings. Mr. Kunej advised that nationally cases are being vacated due to insufficient interpreters and cautioned against using conditionally-approved interpreters. Ms. Mann clarified there is a certification exam for only 18 languages out of over 3,000 living languages in the world today. Ms. Mann explained there are some languages when the interpreter is used only once or twice a year, and asked how they can be motivated to become even a registered interpreter when going through the process isn't cost effective for them. Mr. Kunej advised out-of-state resources should be utilized in those situations. Ms. Mann shared in the past with rare languages sometimes the national listserv does not have any leads for court interpreters. Judge Chon advised the type of hearing and the time frame in which judges have to hold the proceeding is also part of the equation when conditionally-approved interpreters are used. Judge Chon shared conditionally-approved interpreters could be utilized for initial appearances but not for trials if there are court interpreters to be found out-of-state. Judge Leavitt asked if the committee wanted to impose an observation requirement for conditionally-approved interpreters.

Ms. Draper asked how to ensure judges are aware of the interpreter's credentialing, and what can we do to help prepare conditionally-approved interpreters. Judge Leavitt suggested having Ms. Mann investigate potential educational resources for conditionally-approved interpreters, and to also have her speak with IT about CARE and CORIS programming on the viability of having a pop-up box when a conditionally-approved interpreter is used. Ms. Mann shared CORIS is going through a rewrite and having a credentialing box that causes a pop-up reminder for judges is a good idea. Mr. Kunej strongly suggested having a firm process in place for conditionally-approved interpreters. Ms. Diaz suggested a reminder to judges that conditionally-approved interpreters are not formally trained. Mr. McUne advised that a five to ten minute educational video on YouTube could help conditionally-approved interpreters. Judge Chon advised that courts must be able to provide the technology to watch the video as not everyone has the ability to access the internet. Mr. El Fajri suggested an observation requirement of five hours. Ms. Draper advised that requirement would deter many conditionally-approved interpreters as they wouldn't be paid for those five hours, and they aren't used to interpret with enough regularity to make it worth their time. Ms. Draper summarized the ongoing discussion as judges need to be informed better on the credentialing of interpreters, and conditionally-approved interpreters should have video resources to review. Ms. Draper suggested using pre-recorded proceedings for training as well. Ms. Draper asked if a 30 minute orientation for those who haven't interpreted in court before would be feasible. Ms. Mann shared in the past she has had telephone conversations with interpreters who were going to interpret in court for the first time. Ms. Mann shared time constraints would make it hard to have 30 minute orientations as a blanket requirement for conditionally-approved interpreters. Ms. Mann shared the guidelines included in the meeting materials could be given to the conditionally-approved interpreters as training material and it could also be posted on the court's website.

Judge Leavitt motioned to approve the guidelines, with the amendment of adding language to encourage observing court proceedings or to obtain other training prior to interpreting in court.

Ms. Draper suggested adding to the guideline to contact the Language Access Program Coordinator for a quick phone orientation if observing or watching training videos isn't possible. Ms. Draper suggested changing the paragraph on not omitting, changing, or adding anything, as interpreters can't interpret verbatim and people will misinterpret that paragraph. Mr. Kunej advised he would leave the section as it is currently written. Judge Schaeffer-Bullock suggested leaving the language as it so that interpreters understand they must accurately interpret what is said by the court and by the individual needing the interpreter. Ms. Mann said she would work on that section of the guidelines. Ms. Call shared she asks the judge and attorneys if she can explain her role to the individual, and she makes sure they are aware that she will interpret everything they say. Ms. Call shared an interpreter she knows provides a card to the individual on what the interpreter can and cannot do. Mr. McUne suggested a card that judges must read out loud on the role of the interpreter for the entire court, which would be interpreted to the limited English proficiency individual.

Judge Leavitt motioned Ms. Mann incorporate the discussed changes to the guidelines and for Ms. Mann to create a card explaining the role of the interpreter for judges to read to the court when there's a conditionally-approved interpreter. Mr. McUne asked if judges couldn't read the card every time an interpreter is used. Judge Leavitt advised he didn't think it would be realistic to expect judges to read the card every time an interpreter is used.

Ms. Mann asked if there was a second to Judge Leavitt's motion. Ms. Draper suggested amending the guidelines informing interpreters not to sit next to the court patron, as communication does need to be established. Ms. Mann shared she thought that would lead to the court patron viewing the interpreter as their ally. Ms. Mann asked the committee for their thoughts on that section. Ms. Call advised she would leave the section as written, as ASL is different from spoken language. Mr. McUne suggested revising the section to only sit beside the individual while interpreting and not for personal conversations. Ms. Draper suggested that the committee shouldn't create a hard rule regarding introducing themselves or establishing communication.

#### **(4) Utah Language Access Plan**

The committee tabled discussion until the next meeting due to time.

#### **(5) Conditionally Approved Interpreter Order Form.**

The committee tabled discussion until the next meeting due to time.

#### **(5) 2019 Meeting Dates.**

Ms. Mann asked committee members to mark the 2019 committee dates on their calendars.

#### **(6) Other Business.**

There being no further business, the meeting adjourned at 2:10 p.m.