

Agenda
Language Access Committee Meeting
 March 20, 2020
 12:00 – 2:00 p.m.

Administrative Office of the Courts
 Scott M. Matheson Courthouse
 450 South State Street
Via Videoconference

| | | | | |
|-------|--|-----------------------|-------|-----------------|
| 12:00 | Welcome New Member, Discussion and Approval of Minutes | Discussion/ Action | Tab 1 | Michelle Draper |
| 12:10 | Committee Update to the Judicial Council | Discussion | Tab 2 | Michelle Draper |
| 12:20 | Proposed Changes to the Accounting Manual | Discussion/ Action | Tab 3 | Kara Mann |
| 1:00 | Chair of the Committee- Nominations and Appointment | Discussion/ Action | | Michelle Draper |
| 1:50 | July Meeting Date Scheduled Date: July 17, 2020 | Discussion/ Action | | Kara Mann |
| 2:00 | Adjourn | | | Michelle Draper |

2020 Meeting Schedule:

May 15, 2020
 July 17, 2020
 September 18, 2020
 November 20, 2020

Tab 1

Language Access Committee
Matheson Courthouse
Executive Dining Room
450 South State St.
Salt Lake City, Utah 84111

November 15, 2019

Draft

Members Present

Michelle Draper - Chair
Yadira Call
Mary Kaye Dixon
Megan Haney
Judge Michael Leavitt
Judge Kelly Schaeffer-Bullock

Members Excused

Judge Su Chon
Lynn Wiseman
Monica Greene Diaz
Amine El Fajri
Russ Pearson

Staff

Kara Mann
Jeni Wood – Recording Secretary

Guests

Marchelle Wyatt, Second District Juvenile Court

(1) Welcome

Michelle Draper welcomed everyone to the meeting. Ms. Draper welcomed Marchelle Wyatt, who attended on behalf of Lynn Wiseman.

Kara Mann addressed the September 20, 2019 minutes. With no changes to the minutes, Judge Michael Leavitt moved to approve the September 20, 2019 minutes, as presented. Yadira Call seconded the motion. The motion carried unanimously.

(2) 2020 State Language Access Assessment

Ms. Mann presented the committee with the 2020 State language Access Assessment from The National Center for State Courts (NCSC). Ms. Mann explained NCSC charge states on an annual basis, which is a base amount that's adjusted based on population, for use of their interpreter exams and the online national registry of interpreters. Judge Mary Noonan requested the committee review the invoice and memorandum of understanding. Ms. Mann confirmed Utah State Courts use the services offered by the National Center for State Courts, and that there aren't alternative court interpreter exams at this time to consider. Ms. Mann shared that the candidates' costs to take the exams does not cover all of the costs incurred by the courts.

Ms. Mary Kaye Dixon moved to approve the invoice and the memorandum of understanding as presented. Judge Leavitt seconded the motion. The motion carried unanimously.

(3) Court Employee Second Language Stipend Review

Ms. Mann reviewed current second language stipends in Utah State Courts.

| District | Number of Stipends | Number of Available Stipends |
|----------------------------|--------------------|------------------------------|
| First District & Juvenile | 4 | 2 |
| Second District & Juvenile | 7 | 2 |
| Second Juvenile | 8 | 1 |
| Third District | 7 | 1 |
| Third Juvenile | 18 | 8 |
| Fourth District | 4 | 0 |
| Fourth Juvenile | 7 | 3 |
| Fifth District | 2 | 1 |
| Sixth District | 1 | 1 |
| Seventh District | 1 | 0 |
| Eighth District | 1 | 0 |
| AOC | 7 | 3 |

Pass/Fail Rate

| Year | Number of Employees | Pass | Fail | Pass Rate |
|------|---------------------|------|----------------------------|-----------|
| 2018 | 17 | 15 | 2 (1 scored 8, 1 scored 7) | 88% |
| 2019 | 38 | 32 | 6 (4 scored 8, 2 scored 7) | 84% |

Ms. Mann shared there have been requests to lower the minimum threshold score requirement for second language stipends for court employees. Ms. Mann reviewed the ALTA Language Services descriptions of oral performance levels and minimum requirements needed to be approved for a second-language stipend.

Ms. Mann reminded the committee that the required score (9) was selected based off of a survey completed by ALTA of 12 Utah State Court employees who used their Spanish second language skill in their positions. The results of the surveys determined a minimum proficiency level for employees using a second language in the Utah State Courts.

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 set for providing service to its clients.

Level 9 description: 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 has difficulty understanding some slang or idioms or some advanced grammatical structures, but can figure out 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.

Committee recommendations included:

- Provide additional training.
- Change the pay to a pay scale based on level approved.
- Raise the stipend to create a more enticing environment.
- Include required training through mandatory education hours.

The committee elected to table this issue until further research can be conducted on whether there are resources for training employees to assist with the second language stipend testing; to determine the level of need for second language stipends in the Utah Courts, to ask TCEs if the need is immediate; and request information from ALTA on their standards.

Judge Leavitt moved to table this issue until further research can be conducted. Judge Schaeffer-Bullock seconded the motion. The motion carried unanimously.

(4) Request by a Federal Court Interpreter

An Arabic interpreter requested the Utah Courts approve certification that they received from the United States Department of State. The Federal Courts accepted this certification. Arabic language is the second most requested language in Utah.

The interpreter is considered professionally qualified in Federal Court. Professional qualified is the level accepted when there is a lack of available testing in that language.

Ms. Draper suggested maintaining current standards and having the interpreter follow the same process. Judge Leavitt believed if there is a need, perhaps an exception could be made.

The committee decided to not approve this request and offer a place setting for the January exam.

Judge Leavitt moved to deny the request and to include an offer of an exam spot for the January exam. Ms. Call seconded the motion. The motion carried unanimously.

(5) Recorded Evidence Guidelines

Ms. Mann shared that spoken and signed language interpreters are being requested to provide on-the-spot interpretations during court proceedings of materials that are presented in languages other than English to such a degree that it has become a reoccurring issue. The court should not ask onsite interpreters to provide instantaneous interpretations of audio or video recordings, as to do so is in conflict with recognized best practices and with the Codes of Professional Responsibility for Court Interpreters. Best practices are designed to create the greatest degree of accuracy of interpretations and translations.

Ms. Mann shared with the committee that Kesia Williams recommends updating court rules through Policy & Planning to address the issue.

Judge Leavitt moved to request rule amendments about translations and more modern recording devices, and to provide a memo to the courts until permanent rules are in place, as presented. Ms. Haney seconded the motion. The motion carried unanimously.

(6) Other Business.

Yadira Call felt that testing by section would not lower the standard but might help with higher pass rates. Ms. Mann noted all three sections must be passed within two years.

Due to lack of quorum, Ms. Draper requested Ms. Mann distribute the minutes and motions that were made electronically to the committee for approval. Judge Kelly Schaeffer-Bullock arrived after this request, therefore, the motion is moot.

(7) Adjourn

There being no further business, the meeting adjourned at 1:52 p.m.

Tab 2

Utah Language Access Committee Report to Utah Judicial Council

February 24, 2020

I. Interpreter Usage in Fiscal Year 2019

| Court | Number of Proceedings |
|----------------|-----------------------|
| District Court | 6,273 |
| Juvenile Court | 4,144 |
| Justice Court | 12,236 |
| Total | 22,653 |

| District Usage of Interpreters | District Court | Juvenile Court | Justice Court |
|--------------------------------|----------------|----------------|---------------|
| 1 st | 364 | 88 | 643 |
| 2 nd | 869 | 575 | 1,474 |
| 3 rd | 2,909 | 1,704 | 7,018 |
| 4 th | 1,483 | 1,327 | 2,349 |
| 5 th | 456 | 96 | 622 |
| 6 th | 82 | 95 | 50 |
| 7 th | 63 | 4 | 52 |
| 8 th | 47 | 6 | 28 |
| Youth Parole Authority | | 249 | |

II. Interpreter Usage Growth

| Court | FY 2018 | FY 2019 | Growth Percentage |
|----------------|---------------|---------------|-------------------|
| District Court | 5,568 | 6,273 | 12% |
| Juvenile Court | 4,057 | 4,144 | 2% |
| Justice Court | 6,836 | 12,236 | 44%* |
| Total | 16,461 | 22,653 | 37%* |

*Training provided at Justice Court conferences potentially influenced growth

III. Most Requested Languages in Fiscal Year 2019

| Top Requested Languages | |
|-------------------------|--------|
| Spanish | 18,881 |
| Arabic | 609 |
| American Sign Language | 313 |
| Vietnamese | 236 |
| Farsi | 202 |
| Mandarin | 194 |
| Somali | 188 |

IV. Interpreter Training

| Date | Training | Number of Attendees |
|----------------|---|---------------------|
| March 2019 | 2-Day Orientation | 17 |
| March 2019 | ASL Interpreter Orientation | 9 |
| April 2019 | Practice English Written Exam | 7 |
| April 2019 | 3-Day Skill Building Workshop | 15 |
| May 2019 | 2-Day Advance Skill Building Workshop | 11 |
| June 2019 | Practice Oral Proficiency Exam | 7 |
| July 2019 | Practice English Written Exam | 6 |
| July 2019 | The Accounting Manual and Interpreter Invoices Workshop | 7 |
| September 2019 | 2-Day Orientation | 14 |
| October 2019 | Practice English Written Exam | 4 |

V. Interpreter Exam Results

English Written Exam

| Date | Number of Candidates | Passed |
|--------------|----------------------|--------|
| January 2019 | 17 | 7 |
| April 2019 | 14 | 3 |
| July 2019 | 10 | 2 |
| October 2019 | 13 | 7 |
| January 2020 | 9 | 4 |

Oral Proficiency Exam

| Date | Number of Candidates | Passed |
|--------------|----------------------|-----------------|
| June 2019 | 15 | 1 |
| January 2020 | 7 | Results Pending |

VI. Interpreters Added to the Roster

Certified interpreters

| Language | Number |
|----------|--------|
| Spanish | 1 |

Approved interpreters

| Language | Number |
|----------|--------|
| Arabic | 1 |
| Korean | 1 |
| Lao | 1 |

| | |
|-----------------|---|
| Spanish | 7 |
| Mandarin | 1 |
| Tagalog | 1 |
| Thai | 1 |

VII. Committee Members

- Michelle Draper, Chair, ASL Interpreter
 - Yadira Call, Certified Spanish Interpreter
 - Judge Su Chon, Third District Court
 - Mary Kaye Dixon, Interpreter Coordinator, Second District
 - Amine El Fajri, Certified Arabic Interpreter
 - Monica Diaz, Attorney, Utah Juvenile Defender Attorneys
 - Judge Michael Leavitt, Fifth District Juvenile Court
 - Russell Pearson, Trial Court Executive, Eighth District
 - Judge Kelly Schaeffer-Bullock, Highland Justice Court
 - Lynn Wiseman, Clerk of Court, Second District Juvenile Court
- Staffed By: Kara Mann, Language Access Program Coordinator, AOC
Jeni Wood, Recording Secretary (when available)

The Committee meets every other month on the third Friday for two hours.

VIII. Completed Projects

- Revised and approved the Code of Professional Responsibility for Court Interpreters Exam
- Drafted and approved a recruitment pamphlet for court interpreters
 - Brochure was distributed at the Courts’ booth at the Multicultural Festival, Partners in the Park, the Muslim Heritage Festival, and FanX
- Developed an action plan to address the certified Spanish interpreter shortage
- Reviewed the court employee second language stipend scoring requirement

IX. On-Going Projects

- Updating the Language Access Plan
- Drafting a handbook for Interpreter Coordinators
- Addressing the certified Spanish interpreter shortage
 - Outreach
 - Scheduling
 - Focus on Approved Interpreters

X. Future Projects

- Drafting new court rules to address interpreting recorded evidence
- Reviewing the hourly pay for contract interpreters in order to make a recommendation
- Creating a mentoring program for approved interpreters

XI. Looking Forward- Challenges

- A lack of approved Spanish interpreters passing NCSC's Oral Proficiency Exam to become certified court interpreters.
- The pay for interpreters of languages of lesser diffusion. The pay often isn't enough of an incentive for languages that are rarely requested.
- A lack of qualified applicants applying for the open staff interpreter positions.

Tab 3

Court Interpreters

Resources:

- CJA [Rule 3-306.01](#), [Rule 3-306.05](#)
- [78B-1-2](#), [78B-1-208](#)
- See also Section 12 Travel, [12-01.01 Per Diem Rates](#)
- Website for [public access to requests and form](#)

Purpose:

To outline the accounting policies and procedures regarding payment of interpreters in courts of record for persons of limited English proficiency and for hearing-impaired persons.

Policy:

1. Small purchasing rules prohibit payments to a single vendor exceeding \$50,000 in a fiscal year without a contract

INTERPRETERS FOR PERSONS OF LIMITED ENGLISH PROFICIENCY

2. These provisions do not apply to court employees.
3. The state courts will pay interpreter fees and expenses in courts of record when interpreters are appointed in accordance with Utah Code of Judicial Administration (CJA) Rules 3-306.01-.05
4. Interpreter payments are processed by the Administrative Office of the Courts and coded to the following units:
 - a. 0072 – Interpreter Payment (Object 7018) and Mileage (Object 7020)
 - b. 0073 – Meals (Object 6271) and other expenses
 - c. 0074 – Interpreter Certification
5. Hourly fees for interpretation are based on the interpreter’s classification: certified, approved, registered, or conditionally approved.
6. Definitions
 - a. “Assignment” means the interpreter being offered and accepting the duty to interpret in a legal proceeding.
 - b. “Cancellation” of a legal proceeding includes early termination.

- c. “Legal proceeding” means a specific case or calendar conducted before the appointing authority, court-annexed mediation, communication with court staff, and participation in mandatory court programs. Legal proceeding does not include communication outside the court unless permitted by the appointing authority. See also CJA Rule 3-306.01.
- d. “Notice” and “notify” mean a communication made by the means likely to give actual notice, including email, text and phone messages, regardless of whether the message is received.

7. ~~Minimum Fees.~~ Interpreter Fees.

- a. Court interpreters are paid for the time of their assignment or a minimum fee based on the distance they travel, whichever is more. The miles must have been actually driven. See the chart below:

| Interpreters who drive at least this far (one way) from their home base or from their previous assignment: | Will be paid at least this much time: |
|---|--|
| 0-24.9 miles | 1 hour |
| 25-49.9 miles | 2 hours |
| 50-74.9 miles | 3 hours |
| 75+ miles | 4 hours |

- b. Distance shall be calculated in accordance with charts prepared by State of Utah and used by the Administrative Office of the Courts to calculate mileage reimbursements.
- c. If the interpreter qualifies for overnight accommodations under paragraph (a), the interpreter qualifies for the minimum fee for a second or subsequent day of an assignment based on the distance traveled from their home base on the first day.
- d. Interpreters may waive minimum fees and mileage to qualify for participation in rotation assignments effective in some districts.
- e. The hourly rate to be paid is calculated from the scheduled start, whichever is earlier, or actual start of the legal proceeding to which the interpreter is assigned or in which the interpreter provides interpretation, until the end of the proceeding. If the scheduled start is delayed because the interpreter is late, the interpreter will be paid from the time the interpretation begins until the end of the legal proceeding. If someone other than the scheduled interpreter interprets the proceeding because the scheduled interpreter is late, the courts will not pay the scheduled interpreter.
- f. Wait time. The courts will pay for **a maximum of up to** one hour of wait time between the end of one assignment and the beginning of the next assignment **at the same location**. The assignments must be at the same

- courthouse. Interpreters will not be paid wait time if they leave the location between the assignments.
- g. If the sum of the amounts due for all assignments at a location ~~in a day~~ is more than the minimum fee, the interpreter will be paid for the sum of all assignments at that location rounded up to the nearest one-half hour.
 - h. Lunch breaks. The courts will not pay for any breaks for a meal period.
 - i. Meal periods will not be considered wait time.
 - ii. Meal periods will not be factored into any minimum fee.
 - i. Multiple language assignments. Interpreters who interpret more than one non-English language at a location on the same day will be required to show actual times on separate invoices for each language that they interpret.
8. Cancellation of Legal Proceedings
- a. The courts will pay for canceled legal proceedings under the following conditions:
 - i. the interpreter is scheduled for the proceeding more than 48 hours, excluding weekends and holidays, before the scheduled start of the proceeding; and
 - ii. the interpreter is notified of the cancellation less than 48 hours, excluding weekends and holidays, before the scheduled start of the proceeding; and
 - iii. the cancellation is not due to the interpreter's absence or tardiness.
 - b. Legal proceedings of 6 hours or more. The court will pay for 50% of the fee for the scheduled time up to a maximum of 6 hours or the minimum fee for miles actually driven, whichever is greater.
 - c. Legal proceedings of less than 6 hours. If the interpreter is notified between 12 and 48 hours, excluding weekends and holidays, before the scheduled start time, the courts will pay for one hour. If the interpreter is notified less than 12 hours, excluding weekends and holidays, before the scheduled start time, the courts will pay the minimum fee for miles actually driven – or one hour, whichever is greater.
 - d. The courts will pay mileage reimbursement for each mile actually and necessarily traveled if the interpreter is notified while in route to the legal proceeding.
 - e. In order to be reimbursed for cancellation fees, interpreters must submit a Cancellation Form provided by the Administrative Office of the Courts along with their invoice.
 - f. If the interpreter is assigned substitute work by the courts on the date of the canceled legal proceeding, cancellation fees will be reduced by the amount due for the substitute work.
9. On-Call
- a. Subject to the Code of Professional Responsibility, the interpreter must accept assignments during any time for which the interpreter is due payment or forfeit the fee for that period of time. The interpreter will be paid one fee for that time. The appointing authority may release an interpreter if there are no legal proceedings to interpret.

- b. If there is an extended delay in the interpreter’s duties in a legal proceeding, (such as waiting for a jury to complete deliberations) the appointing authority may:
 - i. (usually for long periods) release the interpreter, in which case the interpreter has no obligation to the court and is not paid during the interim. A legal proceeding after the release is treated as a regular assignment.
 - ii. (usually for intermediate periods) direct the interpreter to remain on-call, in which case the interpreter may leave the courthouse, but must be able to return within the time after notice specified by the appointing authority. The court will pay at the ratio of 1 hour for every 2 hours on-call or fractions thereof up to a maximum of 6 hours (12 hours on-call). A fraction of an hour is rounded up to the next hour. A legal proceeding after the on-call notice is treated as a regular assignment.
 - iii. (usually for short periods) direct the interpreter to wait at the courthouse, in which case the court will pay for the actual waiting time (this is different than the wait time described in 5(g) above).
 - c. In order to qualify for “on-call” status and pay, the interpreter must be instructed that he/she is “on-call” by a court employee. Such “on-call” status must be noted (and initialed by the appropriate court employee) on the interpreter’s invoice.
10. Mileage. Interpreters will be paid for miles traveled in excess of 24.9 miles at the highest rate currently in effect for state employees.
 11. Lodging and Per Diem. Interpreters will be paid for lodging and per diem at the same rate as state employees. Per diem expenses will be paid only when overnight lodging is required and approved in advance and in writing by the Deputy State Court Administrator at the Administrative Office of the Courts.
 12. Common carrier. Payment of an interpreter’s actual travel expenses by common carrier, i.e. commercial bus, train or plane, may be reimbursed, but must be approved in advance and in writing by the Deputy State Court Administrator at the Administrative Office of the Courts. The interpreter must provide a receipt showing the amount actually paid.
 13. Request for payment.
 - a. Interpreters shall submit requests for payment on an invoice provided by the Administrative Office of the Courts, to each district in which they interpreted.
 - b. Interpreters shall submit invoices within thirty (30) days after completion of the assignments for which a reimbursement may be due. Invoices must be submitted to the interpreter coordinator in the district where the assignment took place, including any reimbursement forms for overnight stays.

INTERPRETERS FOR HEARING-IMPAIRED PERSONS

1. Policies concerning interpreters for the hearing-impaired are governed by Utah Code §78B-1-201 and the Americans with Disabilities Act.
2. The state courts will pay for one interpreter for each hearing-impaired party, juror, witness or courtroom visitor in all criminal, civil, and juvenile proceedings. If a hearing takes more than two hours, the state courts will pay for two interpreters. If the hearing takes an entire day, the state courts may pay for more than two interpreters, if requested.
3. Pursuant to §Utah Code 78B-1-208, reasonable fees for interpreters for the hearing-impaired are set either by a fee schedule recommended by the division of rehabilitation services, or if the division has not established a fee schedule, by prevailing market rates. In addition, interpreters for the hearing-impaired are entitled to a fee for waiting time, and to reimbursement for necessary travel and subsistence expenses. Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally. Interpreter coordinators or court clerks responsible for securing interpreters for the hearing-impaired should periodically confirm current fees for interpreters for the hearing-impaired through the Purchasing Department of the Administrative Office of the Courts.
4. Credentials. Courts should schedule an interpreter who is qualified as a court interpreter by the Utah State Office of Rehabilitation.
5. Courts should try to schedule appointments 24 hours or more in advance, because last-minute appointments, scheduled on the same day that service is provided, may incur surcharges. Courts must schedule interpreters through agencies holding a state contract.
6. Cancellation Policy. To avoid being billed for the duration of a scheduled appointment, notice of cancellation should be given at least 24 hours in advance of the start of an assignment. Cancellation payment policies for language interpreters are inapplicable to interpreters for the hearing-impaired. Applicable cancellation payment policies are determined by the Utah Interpreter Program, or by private agencies or interpreters from whom service is secured.
7. Agencies shall submit an invoice for interpreter service to the Language Access Program Coordinator at the Administrative Office of the Courts. The Language Access Program Coordinator will contact the appropriate interpreter coordinator, who will check court records to ensure that the invoice is accurate and that the payment amount is correct.