

Minutes of the Policy and Planning Committee

January 8, 2016

Members Present

Marvin Bagley, Ann Boyden, Mark DeCaria, John Lund, Mary Noonan, Reed S. Parkin

Members Excused

None

Staff

Alison Adams-Perlac

Guests

Dan Becker

(1) Approval of Minutes

Judge Parkin moved to approve the minutes of the December 4, 2015 meeting. Judge DeCaria seconded the motion and it passed unanimously.

(2) Justice Court E-filing

Ms. Adams-Perlac reviewed the proposed rule that would make e-filing discretionary in criminal cases in justice court between July 1, 2016 and June 30, 2017, and mandatory after July 1, 2017. She stated the Board of Justice Court judges proposed these dates and that Ron Bowmaster agreed that e-filing in justice court can be ready by July 1, 2016 for criminal cases. Judge Parkin stated that he has talked to Bob Church at the Utah Prosecution Council regarding the proposed dates and the Prosecution Council does not have any concerns.

Ms. Adams-Perlac stated that Mr. Becker expressed some concern regarding the 1 year time period between the discretionary and mandatory filing periods. She stated the time period was only 6 months in the district and juvenile courts. Mr. Becker joined the meeting and agreed with those concerns.

The committee discussed changing the time period so there will only be 6 months between the discretionary and mandatory e-filing periods.

Mr. Lund moved to recommend the proposed rule, amending "June 30, 2017" in line 9 and "July 1, 2017" in line 12 to both read "December 31, 2016," to the Council for public comment. Judge Bagley seconded the motion and it passed unanimously.

(3) Language Access Rules

Ms. Adams-Perlac discussed rules 3-306.01 through 3-306.05. She stated the rule 3-306 has been broken into parts, so that it is easier to navigate. She stated the Language Access Committee reviewed and revised the rule proposals over a number of months before voting to recommend them to the Policy and Planning Committee for its approval.

Ms. Adams-Perlac reviewed rules 3-306.01 and 3-306.02. She stated that the changes in these rules are non-substantive, since they simply move language to another subpart, and include language that is in rule 3-306 currently.

Ms. Adams-Perlac then reviewed rule 3-306.03. She stated that this rule adds a requirement that an interpreter certified by the rule must immediately report any criminal charges or convictions and any

Utah State Court cases they are personally involved in as a party to the program coordinator. The amendment also provides that an interpreter who speaks a language in which the court lacks certified interpreters may seek an exemption from the requirement to pay the application fee, and to obtain a passing score on the court interpreter's test, for good cause shown. The Language Access Committee shall consider the request and may set conditions for the exemption. The rule also reiterates that all interpreters, except the four staff interpreters in the Third District, are independent contractors.

Ms. Adams-Perlac reviewed rule 3-306.04. She stated that the only amendment to this portion of the rule is that the Judicial Council shall conduct a market survey every three years, rather than annually, to determine whether the hourly rates for interpreters should be changed. The committee asked questions regarding the market survey process. Mr. Becker stated that Human Resources usually conducts these surveys. Ms. Adams-Perlac stated that she also receives information from a national listserv through the National Center for State Courts. She stated that she reviews the fees rates nationally and regionally.

Mr. Lund suggested changing "conduct" to "review" and adding "conducted by the Language Access Program Manager" after survey on line 89. The committee agreed.

Finally, Ms. Adams-Perlac reviewed rule 3-306.05. She stated that this rule includes unprofessional behavior toward a client, judge, court staff, or Language Access Committee member, or being charged with, or convicted of, a crime to the list of things for which an interview may be disciplined. She explained some of the problems that have arisen due to unprofessional behavior by contract interpreters. She explained that the rule also gives an interpreter coordinator the discretion to decline to assign an interpreter listed on the statewide roster as long as the coordinator otherwise follows rule 3-306.04 in assigning an interpreter.

Judge Noonan suggested adding court security to the list in lines 22 and 23. The committee agreed.

Ms. Adams-Perlac stated that the rule also provides that if the Language Access Program Coordinator files a formal complaint, the Language Access Program Manager has the responsibility to fulfill the duties of the Coordinator under the rule.

Ms. Adams-Perlac reviewed other changes to the rule regarding the appeals process, which would allow a panel of the Language Access Committee to reach a decision following the Coordinator's proposed resolution, and would allow an appeal from that panel's decision to the main committee.

Judge Noonan recommended removing "particularly" from line 62, changing "shall be" to "is" on lines 81, 83, 84, and 120. She also suggested adding "by a majority" after "determine" on line 93, and "chair" after panel on line 95. The committee agreed with Judge Noonan's amendments.

Judge Noonan moved to recommend the proposals, as amended, to the Judicial Council for public comment. Judge Boyden seconded the motion and it passed unanimously.

(4) Senior Judge Assistance

Ms. Adams-Perlac explained the proposed rule. She stated that the Council had approved that would give presiding judges more discretion in appointing a senior judge, if certain conditions were met. Mr. Becker gave more background. The committee discussed the proposal at length, including the Council's discussions on the issue. Judge Noonan expressed that the rule should allow for presiding judges to have more discretion to appoint a senior judge in emergency situations, e.g. a trial, when a calendar is set, etc. Mr. Becker explained that appointing a senior judge can be problematic when it is done without taking the budget process into account. The committee discussed requiring the presiding judge to develop a plan in conjunction with the AOC regarding how the senior judge will be funded. Mr. Becker stated that this is generally happening, and it works. Ms. Adams-Perlac suggested that the rule provide more guidance to presiding judges regarding how to make these requests and what should be considered. The committee also discussed that the rule should apply only to unexpected vacancies.

The committee asked Ms. Adams-Perlac to revise the proposal to address its concerns, and to bring the proposal back to the next meeting.

(5) Other Business

There was no other business and the meeting was adjourned.