

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

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3 **Intent:**

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

7 To outline the procedures for appointment and payment of contract interpreters for legal
8 proceedings.

9 **Applicability:**

10 This rule applies to legal proceedings in courts of record and not of record.

11 This rule applies to interpretation for individuals with ~~_a primary language other than English and~~
12 limited English proficiency (LEP). This rule does not apply to interpretation for individuals with a
13 hearing impairment, which is governed by Utah and federal statutes.

14 **Statement of the Rule:**

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16 **(1) Appointment.**

17 (1)(A) Except as provided in paragraphs (1)(B) and (1)(C), if the appointing authority
18 determines that a party, witness, victim, or person who will be bound by the legal
19 proceeding ~~has LEP has a primary language other than English and LEP~~, the appointing
20 authority will appoint a certified or approved interpreter in all legal proceedings. A person
21 requesting an interpreter is presumed to be a person ~~with~~ LEP. All appointments will
22 be made using the interpreter scheduling process approved by the Council.

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

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

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

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

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

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37 (1)(D) **Out of state credentials.** The appointing authority may appoint an interpreter
38 with certified or approved or equivalent credentials from another state if the appointing
39 authority finds that the approved, registered, or conditionally approved interpreters who
40 are reasonably available do not have the language skills, knowledge of interpreting
41 techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The
42 appointing authority may consider the totality of the circumstances, including the

43 complexity or gravity of the legal proceeding, the potential consequences to the person
44 withef LEP, and any other relevant factor.

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46 (1)(E) **Direct verbal exchange.** No interpreter is needed for a direct verbal exchange
47 between the person and court staff if the court staff can fluently speak the language
48 understood by the person and the state court employee is acting within guidelines
49 established in the Human Resources Policies and Procedures. An approved, registered,
50 or conditionally approved interpreter may be appointed if court staff does not speak the
51 language understood by the person.

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53 (1)(F) **Number of interpreters.** The appointing authority will appoint one interpreter for
54 all participants with LEP, unless the judge determines that the participants have adverse
55 interests, or that due process, confidentiality, the length of the legal proceeding, or other
56 circumstances require that there be additional interpreters.

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

63
64 (3) **Waiver.** A person may waive an interpreter if the appointing authority approves the waiver
65 after determining that the waiver has been made knowingly and voluntarily. A person may
66 retract a waiver and request an interpreter at any time. An interpreter is for the benefit of the
67 court as well as for the person with ~~a primary language other than English and~~ LEP, so the
68 appointing authority may reject a waiver.

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

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74 (5) **Recorded Evidence.**

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76 (5)(A) **Sight translations.** Parties may not ask interpreters to produce on-the-spot sight
77 translations of written documents. The court may explain to the parties why this task is
78 inappropriate.

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80 (5)(B) **Recorded evidence in languages other than English.** When offering a
81 recording of a spoken language other than English, a party must offer a written transcript
82 of the recording to aid the jury or the court in understanding the recording. Admissibility
83 of the recording and transcript is governed by the Utah Rules of Evidence.

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85 (5)(C) **Recorded evidence in English.** Audio and video files recorded in English that
86 will be played in open court should be reviewed by the interpreter(s) who will be
87 providing language services for that hearing prior to the proceeding.

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89 (5)(D) **Emergency circumstances.** If the situation involves an emergency
90 circumstance, the court may require a party with LEP to testify as to what is being said
91 on the recording and have that testimony interpreted by the court interpreter for the
92 record. If the recorded evidence is brief or not complex, the court may permit on-the-spot
93 interpretation with the consent of the court interpreter.

94 (5)(E) **Duty to inform.** Court interpreters assigned to a given proceeding must inform
95 the judge if they are unable to provide on-the-spot interpretation of audio or video
96 recordings, or sight translations of written documents in English.
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98 **(6) Payment.**
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100 (6)(A) **Courts of record.** The fees and expenses for language access in courts of record
101 will be paid by the Administrative Office. Payment of fees and expenses will be made in
102 accordance with the Accounting Manual.
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104 (6)(B) **Courts not of record.** The local government that funds a court not of record will
105 set and pay the fees and expenses for interpreters in that court.
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107 (6)(C) **Parties.** The court may assess the fees and expenses as costs to a party as
108 otherwise provided by law (e.g., Utah Constitution, Article I, Section 12, Utah Code
109 Sections 77-1-6, 77-18-116, 77-32b-104, 78B-1-146, Rule 54 of the Utah Rules of Civil
110 Procedure, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.,
111 including regulations and guidance adopted under that title).
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113 (6)(D) **Review.** A person who has been ordered to pay fees and expenses for language
114 access may apply to the presiding judge to review the order. If there is no presiding
115 judge, the person may apply to any judge of a court of equal jurisdiction. The application
116 must be filed within 20 days after the date the order was issued.
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118 **Effective: ~~5/1/2025~~ November 1, 2026**
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