

Language Access Committee

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

January 20, 2017

Members Present

Judge Rick Romney - Chair
Judge Su Chon
Mary Kaye Dixon
Michelle Draper
Megan Haney
Judge Mike Leavitt (via phone)
Maureen Magagna
Randall McUne
Miguel Medina
Russ Pearson
Bebe Vanek

Members Excused

Jennifer Andrus
Amine El Fajri
Gabriela Grostic

Staff

Keisa L. Williams
Jeni Wood - recording secretary

Guests

(1) Welcome and Minutes.

Judge Rick Romney welcomed the committee to the meeting and introduced himself. Judge Romney welcomed new defense counsel member, Bebe Vanek to the committee. Bebe Vanek introduced herself and expressed her gratitude for being allowed to serve on this committee. Each of the committee members introduced themselves. Judge Romney then addressed the November 18, 2016 minutes. With no changes, Maureen Magagna moved to approve the minutes. Randall McUne seconded the motion. The motion carried unanimously.

(2) New Members and Term Limits.

Keisa Williams informed the committee that Rosa Oakes resigned from the AOC. Ms. Williams will be taking over Ms. Oakes' duties until a replacement is hired. Ms. Williams discussed term limits for committee members and noted that Judge Romney's and Maureen Magagna's six-year terms are up. They will need to be replaced after the next meeting. Ms. Williams expressed her gratitude for their service on the committee. Several other members have completed their first three-year term. Ms. Williams asked them to email her if they are willing to serve another term.

(3) Language Access Program Updates and ASL Subcommittee Update.

Ms. Williams discussed the subcommittee working on video equipment for ASL interpretations. At the last meeting, the subcommittee chose an option proposed by Jymn Edwards from IT. The subcommittee is proposing the use of two (2) small cameras on tripods that would allow IT to upload the video into the court record. The video quality is very high so that signs and facial expressions can be seen clearly

when zoomed in for an accurate review of the record. Each camera costs approximately \$800, with additional expenses for the tripod and case. Ms. Williams pulled ASL interpretation numbers in courts throughout the state to try and get an idea of which court buildings the cameras should be housed in. The committee felt that the numbers were inaccurate and discussed their experience with high-volume ASL locations. The committee identified Matheson, West Jordan, Ogden, and St. George as the courts with the most need for this equipment. Ms. Williams said the equipment should also be available for use in juvenile and justice courts. With most cases being set in advance, housing the equipment in hub locations should accommodate the need, with the least amount of expense. Ms. Magagna asked if they would only be available for trials. Ms. Williams said the equipment would be available for all hearings. Ms. Williams will put a budget packet together and once approved by Ray Wahl, it will be taken to the Judicial Council for approval.

Ms. Williams discussed out-of-state interpreters. Recently there was an incident where an out-of-state interpreter was scheduled to appear by phone, however, the judge decided not to use the interpreter. No one informed the interpreter and we were required to pay them to wait by the phone for two hours. This was a needless expense. Judge Su Chon suggested Ms. Williams attend the annual judicial conference to explain this, as well as train the TCE's and clerks.

Ms. Williams discussed remote interpretation capabilities via Vidyo. There is a room on the 2nd floor of Matheson for remote interpreting and thus far it has been used successfully in Moab and St. George. Ms. Williams said sometimes defense attorneys may need an interpreter at the table for privileged interpretations. IT recommended using a separate laptop at the defense table for this purpose, however, that hasn't yet been tested. Judge Chon said attorneys have to remember to mute the microphones when they are speaking with their clients. This is a training issue. Mr. McUne said it's important that courts have the available bandwidth for these remote interpretations. Ms. Williams said she will mention the need for more bandwidth and Vidyo capabilities in every courtroom to Ray Wahl when they meet, however, the budget may not accommodate such a large request.

(4) Employee Stipend Policy.

Ms. Williams reviewed the amendments to CJA Rule 3-306.04 and HR policy 570 recommended by the committee at the last meeting.

Ms. Williams first discussed CJA Rule 3-306.04. After a brief discussion, the committee decided to make additional changes to add more clarity and to create a definitions section describing things such as "staff interpreter" and "court interpreter." They also agreed to combine sections (2)(C) and (1)(G). Ms. Williams will revise the rule and present it to the committee at the next meeting for final approval.

Ms. Williams next discussed HR policy 570. Ms. Williams added a section to explain the Oral Proficiency Interview (OPI) requirement. Ms. Williams encouraged TCEs to hire employees who are able to speak multiple languages to accommodate for limited resources. To assist with this process, HR has extended authorization so TCEs can make conditional employment offers, subject to passing the OPI. Judge Chon said her employee was told he had to wait until after probation to take the test. Ms. Magagna said it is her understanding employees can take the test after they attend new employee orientation. Ms. Williams recommended amending section 1.1. The committee discussed giving TCE's the discretion to allow the additional stipend testing on a case-by-case basis. Russell Pearson said he has an employee who receives the stipend but can go a month without ever using it. Ms. Magagna said she

has more than one employee who spends her entire day speaking in other languages. Ms. Haney said she understands an employee can only take the test once a year if they fail. Additionally, she doesn't believe the test is specific to legal or court terms/situations. Ms. Williams said the courts will only pay for the test once a fiscal year, however, court employees can take it more often at their own expense, which she believes is \$50. Ms. Williams will consider amending the policy to explain this with more detail. Bebe Vanek suggested amending the policy to "require" fluency rather than "prefer" fluency. Mr. Pearson said the larger districts require it, where the smaller districts prefer it, due to a lack of available applicants.

Ms. Williams explained the OPI. She said Ms. Haney is correct. The test is not court-specific, but rather is general in nature. Alta, the company who created and administers the tests is a nationally recognized company in language testing. Alta claims that the testing is general in nature for the purposes of direct exchanges. Ms. Williams said she will research other courts to see if they are using the Alta Test or if they came up with their own. Judge Chon said the NCSC followed Alta's advice and agreed that this test is the minimum required for direct exchanges.

Ms. Williams mentioned she now has access to NCSC's database of interpreters. This will be very beneficial for rare languages. Additionally, she is now on the national email listserv.

(5) Other Business.

Training and Education

Judge Chon said she believes the committee needs to attend the annual bar conferences and put more emphasis and effort into training and equipment. Judge Chon believes judges need to be trained on how to handle hearings when there are interpreters present. She suggested someone provide judicial training on this at the judges' conferences.

Ms. Williams stated that Rosa Oakes was working with the judicial education team to develop judicial training on interpreters. Ms. Williams will speak with Tom Langhorne to confirm. Ms. Vanek stated training for attorneys would be helpful as well. Ms. Williams will make contact with Connie Howard about creating CLEs. Judge Chon said she would like to get more information to determine exactly what issues need to be addressed before the committee begins developing training.

Judge Chon is concerned that the current headsets are not properly recorded on the official court record. Ms. Williams will investigate this concern.

Last Minute Cancellations

Judge Mike Leavitt said a persistent problem in St. George is attorneys requesting interpreters for a hearing/trial date, then settling the case prior to the hearing without notifying either the court or the interpreter. Judge Chon mentioned that she always asks if there is a need for an interpreter at the beginning of a case. Mary Dixon said in her district, the requests usually come very close to trial. The committee discussed how this issue would be best addressed in the future to avoid last minute requests.

Conflicts of Interest

Ms. Draper expressed concern about inherent conflicts of interest for interpreters who are asked to interpret for defense attorneys and/or multiple stages of case for a particular defendant. For example, ASL interpreters are not allowed to interpret for a police interrogation and then during court proceedings/trials for the same individual. Interpreters may unintentionally bring in information from one encounter to the next. Ms. Williams will ensure conflict of interest training is included in the ethics training requirements for interpreters.

ADA Accommodation

Ms. Draper believes it is an ADA issue if the court does not provide an ASL interpreter for a party's parent or a court observer. Ms. Draper said since the court is open, then we must provide services. Ms. Williams said she will discuss this with Brent Johnson, who handles all ADA requests for the court.

The next meeting is scheduled for March 17, 2017. There being no further business, the meeting adjourned at 1:27 pm.