

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

November 17, 2017

Members Present

Judge Su Chon
Michelle Draper - Chair
Mary Kaye Dixon
Amine El Fajri
Monica Greene
Megan Haney
Judge Mike Leavitt (via phone)
Randall McUne
Miguel Medina
Russ Pearson
Judge Kelly Schaeffer-Bullock
Lynn Wiseman

Members Excused

Jennifer Andrus

Staff

Kara Mann

Guests

(1) Welcome.

Kara Mann welcomed the committee to the meeting and advised the chair of the committee was on her way. Ms. Mann then addressed the September 15, 2017 minutes. With no changes, Monica Greene moved to approve the minutes. Lynn Wiseman seconded the motion. The motioned carried unanimously.

(2) Confidential- Committee Member Search.

The committee went off the record to discuss the committee member search.

(3) Conditionally Approved Application Form.

Ms. Mann reminded the committee of the current form format before reviewing the proposed new form. Ms. Mann explained the form was reformatted to make it cleaner and to add four new fields. Ms. Mann explained the first new field for driver's license number and issuing state was added for background check purposes. Ms. Mann explained the next new field asked if the individual knows legal terminology, and if so, how did they learn it. The third new field asks if the individual knows the person requiring an interpreter, while the last new field asks if the individual has established communication with the court patron requiring an interpreter. Ms. Mann expressed that at first she wasn't sure about adding the last field, but if the form was completed at the time of the hearing then it would be beneficial for the judge to know if communication could be established. Mary Kaye Dixon asked about the field located below the criminal background investigation and questioned why the form would ask the interpreter to explain. Randall McUne advised that question is actually for the criminal offense question so the individual could explain if they had a criminal background. Judge Kelly Schaeffer-Bullock asked if perhaps both questions should have space for explanations so that if the individual refuses a criminal background investigation there would be space to explain why. Ms. Mann shared it is in the court rules that interpreters must successfully undergo a background check so if someone select no they would be automatically disqualified. Judge Schaeffer-Bullock suggested including that language on the form. Michelle Draper asked if it is called a background investigation or if it's called a background check. Ms. Mann explained on the original form it is called a background investigation. Ms. Draper shared investigation sounds more intense and rigorous than a check. Ms. Mann asked if the committee would like for investigation to be replaced by check. Ms. Draper suggested rewording the background question to "I do agree to undergo a criminal background check". Judge Mike Leavitt suggested rewording the established communication question to "have you already established communication". Russ Pearson shared the individual might have interpreted at a previous hearing for the same

individual and would know if communication had been established. Ms. Dixon motioned to approve the form with the included changes. Judge Schaeffer-Bullock seconded the motion. The motion carried unanimously.

(4) CJA Rule Drafts.

Ms. Mann reminded the committee there are four court rules pertaining to court interpreters and shared all four have proposed changes. Ms. Mann advised CJA 3-306.01 defines terms relating to language access and the proposed changes are minor clarifications, in addition to adding definitions for court interpreter, employee, and staff interpreter. Ms. Mann explained adding the definitions clarify each role and how they work within the court. Judge Schaeffer-Bullock asked if there was ever a time when the term court interpreter applies to staff interpreters in the court rules. Judge Schaeffer-Bullock advised there should not be any ambiguity as to what applies to court interpreters or staff interpreters. Ms. Mann agreed the new definitions are included to differentiate between staff interpreters and court interpreters. Ms. Mann shared she would review the rules to ensure any requirement of an interpreter includes both court interpreters and staff interpreters. Miguel Medina advised that staff interpreters must meet the same requirements that court interpreters are required to meet. Ms. Wiseman motioned to approve court rule 3-306.01. Ms. Dixon seconded the motion. The motion carried unanimously.

Ms. Mann advised CJA 3-306.02 sets the guidelines for the Language Access Committee and has minimal changes in an effort to clarify the existing court rule. Ms. Greene suggested adding staff interpreters to CJA 3-306.02(3). Ms. Draper questioned if the committee would have the authority to discipline staff interpreters since they are court employees. Mr. McUne asked if staff interpreters would be disciplined by HR. Judge Schaeffer-Bullock suggested speaking with HR to determine their role and the committee's role on discipline. Mr. Medina questioned if a complaint was filed against a staff interpreter would the committee handle it or would HR. Mr. McUne suggested an infraction leading to being fired would not necessarily be an infraction where certification would be revoked. Judge Schaeffer-Bullock asked if a complaint against staff interpreters is filed would it need to be passed along to HR. Mr. McUne asked if there was an investigation, what information would the committee be allowed to share with HR. Judge Schaeffer-Bullock questioned what HR would be allowed to share with the committee. Ms. Mann shared she would speak with HR to determine the committee's role and HR's role in disciplinary actions with staff interpreters. Ms. Draper asked if a staff interpreter could interpret for a justice court. Mr. Medina clarified staff interpreters can only interpret in district and juvenile courts for Third District and Eight District, but that contract interpreters could contract with any court in the state. Ms. Mann clarified staff interpreters are technically Third District employees who receive their assignments from the Third District Interpreter Coordinator. Ms. Draper asked if there was an HR policy specifically for staff interpreters that the court rule could reference. Mr. Medina shared there is not a HR policy specifically for staff interpreters. Ms. Draper advised since staff interpreters are new, perhaps HR could create a policy that would include the communication between the committee and then the rule could refer to that policy. Mr. McUne reminded the committee that one of the court rules does refer to one of HR's policy in a general concept. Mr. McUne shared staff interpreters have the rights and responsibilities provided in the Utah State Court Human Resource policies and they are bound by those policies. Ms. Dixon asked when staff interpreters were first hired, which Mr. Medina shared was in 2011.

Ms. Mann reminded the committee CJA 3-306.03 covers interpreter credentialing. Ms. Mann advised the major change to the court rule clarifies that court interpreters are not employees and they do not have the right to an appointment to interpret. Ms. Mann shared there has been pushback from interpreters about this addition. Mr. Amine El Fajri shared he had received multiple emails about this issue. Ms. Dixon shared she believed all contract interpreters know they don't have a right to interpret and the language is disrespectful and should be reworded if it has to be included. Ms. Dixon advised there needs to be a joint respect between the AOC and interpreters, which the proposed addition does not reflect. Ms. Wiseman asked if only the last sentence could be used. Ms. Greene asked if only the second sentence could be removed, leaving in the first sentence that court interpreters are not state employees. Ms. Draper voiced her support in taking out the second sentence. Judge Schaeffer-Bullock asked is there a deeper problem that elicited the strong reaction, as reminding someone that interpreting is a privilege, not a right, isn't condescending but similar to rules that bound a driver's license. Judge Leavitt advised that the language is very good for a handbook for interpreters or some instructional form outside of the rules, but he doesn't know if it needs to be included in the rules as a legal document. Ms. Draper advised as a freelance interpreter most interpreters are social service oriented individuals and the strong language hits at their emotions. Ms. Greene asked if the committee could ask for feedback from the interpreters. Ms. Mann agreed asking for feedback could be beneficial for the committee and asked for clarification as to what areas the committee wanted feedback in. Ms. Greene suggested asking what areas are working and any recommendations for improvements. Ms. Draper advised it appeared as if the committee was comfortable with the addition if the second sentence was removed. Mr. McUne recommended following Judge Leavitt's recommendation. Ms. Draper asked if "entitled" could be replaced with "guaranteed" in the first sentence. Judge Leavitt shared he believed the rule should be as succinct as possible. Judge Schaeffer-Bullock shared removing or changing the word entitled could remove clarity. Judge Schaeffer-Bullock asked if we remove the second sentence, which seems to be the crux of the issue with interpreters, does the word entitled need to be changed in the first sentence. Ms. Greene reminded the committee they've

reviewed this rule before and have discussed the importance of including interpreters not being entitled to appointments for legal proceedings. Mr. Pearson advised reminding interpreters they are not entitled to work began when the positions of staff interpreters were added and contract interpreters were not happy. Judge Schaeffer-Bullock shared the program's first duty is to the state, and if there is money to be saved by using staff interpreters rather than contract interpreters then that is what must be done. Ms. Draper asked if anyone had a motion based on the committee's discussion or if more contemplation would be needed. Ms. Megan Haney motioned to approve the proposed addition as written with the removal of the second sentence. Judge Schaeffer-Bullock seconded the motion. Judge Leavitt suggested removing "appointments made in compliance with these rules" from the third sentence. Ms. Draper advised as a freelance interpreter she worried if it stated that appointments were made within the sole discretion of the AOC that favoritism would come in, but by including it then the AOC must also comply with the rule. Mr. Pearson advised he thought including that appointments will be made in compliance with the rules gives an insurance to contract interpreters that the court will make the right assignments and will follow their own rules. Ms. Draper asked for a revote in light of the further discussion. Ms. Haney motioned to approve the proposed addition as written with the removal of the second sentence. Judge Schaeffer-Bullock seconded the motion. The motion carried with Judge Leavitt voting nay.

(5) Confidential- Interpreter Disciplinary Action.

The committee went off the record. Ms. Draper appointed three committee members to panel an interpreter disciplinary hearing.

(6) Other Business.

There being no further business, the meeting adjourned at 1:45 pm.