

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

January 18, 2019

Members Present

Michelle Draper - Chair
Judge Su Chon
Mary Kaye Dixon
Amine El Fajri
Monica Diaz
Megan Haney
Randall McUne
Judge Kelly Schaeffer-Bullock

Members Excused

Yadira Call
Judge Michael Leavitt
Russ Pearson
Chris Kunej
Lynn Wiseman

Staff

Kara Mann

Guests

(1) Welcome.

Michelle Draper welcomed everyone to the meeting.

Ms. Draper addressed the November 18, 2018 minutes. With no changes, Judge Su Chon moved to approve the minutes. Judge Kelly Schaeffer-Bullock seconded the motion. The motion carried unanimously.

(2) English Written Exam Policy

Kara Mann provided the committee with a revised policy, including the following changes as requested at the last meeting: 1) an interpreter would not use one of their allowed attempts for not appearing, but would forfeit their registration fee; 2) exceptions in the number of allowed attempts within a 12-month period will only be approved in an extraordinary circumstance; and 3) straight forward claims can be determined by the program coordinator, while all other requests will be forwarded to the Language Access Committee to consider at their sole discretion.

Ms. Mann explained that a straight forward request is one that is documented, such as an auto accident or hospital stay. Ms. Mann noted regarding all other requests, she would forward the request to the committee, and notify the requestor of the status and the anticipated decision date, which would be the next normally scheduled meeting. There was discussion on if the procedure should be included in the policy after Ms. Mann noted it was not included but could be added. The Committee decided not to add the procedure into the Policy. The Committee had a discussion on the proposed language and whether to provide an appeal process.

The committee discussed if the appeal process should mirror the current grievance process, where a subcommittee makes the decision. Ms. Mann clarified that if there was a subcommittee assigned to review the requests then the subcommittee would make a determination, but the applicant would then have the right to file an appeal to the full committee. The full committee's decision would be final and not appealable. It was noted most applicants would appeal a negative decision from a subcommittee, which would make a subcommittee redundant. The committee decided not to create a subcommittee.

Judge Chon moved to approve amending the Policy to state: "The Language Access Program Coordinator has the discretion to approve an exception for any straight forward request. All other requests for an exception will be considered . . . All decisions by the Language Access Committee will be final and cannot be appealed" as presented. Megan Haney seconded the motion. The motion carried unanimously.

Ms. Mann will post the revised Policy on the website.

(3) Guidelines for Conditionally-Approved Interpreters

Ms. Mann incorporated changes the committee recommended at the last meeting for conditionally approved interpreters, including: 1) to observe court proceedings if they do not have experience interpreting; 2) to contact the program coordinator with questions if they unable to observe hearings; 3) to not engage in personal conversation with the individual before, during, or after a hearing; and 4) to accurately interpret everything said during the proceeding. Ms. Mann noted the changes were moved for approval at the last meeting, however, they were not seconded and voted on by the entire committee, therefore, the committee will need to complete a new vote.

The Committee noted two typos in the language of the guidelines for revision.

It was noted there should be a general email for the interpreter coordinator, rather than using individual email accounts. Ms. Mann agreed this would be a good idea.

Judge Schaeffer-Bullock moved to approve the guideline, as amended. Monica Diaz seconded the motion. The motion carried unanimously.

(4) Conditionally Approved Interpreter Appointment Order Form

Ms. Mann reviewed the district and juvenile Conditionally Approved Interpreter Appointment Order. The Forms Committee edited the proposed order and sent it back to the committee due to concerns that: 1) judges would still be required to prepare an order each time a conditionally approved interpreter is used; 2) taking time to complete the order would take more time than it currently does to verbally approve the conditionally approved interpreter in on the record; and 3) an order would change duties between judges and clerks, giving clerks more responsibility.

It discussed if the committee could approve the conditionally approve interpreters before they are in court. Ms. Mann noted it can be difficult locating qualified interpreters for unique languages. There was a suggestion that there are two different goals; the committee's goal seems to be to notify the court on the credentialing of the interpreter, while the judges' goal appears to have the committee or program vet and approve the conditionally approved interpreters in order to expedite

the process. The committee discussed that there isn't a process in place to vet or approve the conditionally approved interpreters, and in a general sense that's why they're considered conditionally approved. Suggestions were made regarding an online feedback process. There were discussions regarding the appointment process and the findings that needed to be made by the judge.

There was a discussion on if a judge approves an interpreter, can the judge can make findings on the record that the interpreter has already been approved. It was noted that at least in one district this is the current process, where judges review the form and make the requisite findings on the record, but if the interpreter comes back for another hearing in the same case the judge doesn't re-review the form and make the requisite findings on the record again. Ms. Mann clarified, that according to legal counsel judges should be reviewing the conditionally approved form and making the requisite findings on the record each time a conditionally approved interpreter is used, even if it is for multiple hearings for the same case. The committee discussed using a standing order for conditionally approved interpreters, and what a standing order would need to look like. The committee asked if legal counsel could attend a future meeting for further discussion, including if there are legal reasons a standing order for conditionally approved interpreters couldn't be utilized. There was a suggestion that rather than a judge issue an order for a specific case, they could issue a bench order for that interpreter. It was also recommended that judges receive additional training on conditionally approved interpreters.

The committee discussed if interpreter coordinators could use a calendar note in Judicial Workspace to inform judges that the interpreter is conditionally approved and the judge needs to make requisite findings verbally on the record. The committee ultimately decided most likely the JA and not the interpreter coordinator would have to add the note in Judicial Workspace as only those who have access to the judge's cases or calendar could add a note, and judges might be reluctant to give access to others outside of their team. It was suggested to possibly create a working group to get feedback from criminal judges and their teams about their needs when it comes to conditionally approved interpreters.

It was discussed that the Forms Committee is suggesting an integrated solution to make it part of the process rather than an exception to the process. Ms. Mann advised she would establish a work group to meet with judges and their teams to see what their needs are for conditionally approved interpreters, and what possible solutions could be integrated into the current system. Ms. Mann said she would speak with legal counsel about the forms and to see about the possibility of having bench orders for the entire case.

(5) Update on 2019 Training and Testing

Ms. Mann provided the committee with the 2019 training and testing schedule.

English Written Exam

January 18, 2019- English Written Exam

July 1, 2019- Mock English Written Exam

July 12, 2019- English Written Exam

April 8, 2019- Mock English Written Exam

April 19, 2019- English Written Exam

October 7, 2019- Mock English Written Exam

October 18, 2019- English Written Exam

Orientations

March 20-21, 2019- Spring Orientation

September 5-6, 2019- Fall Orientation

Skill-Building Workshops

April 22-24, 2019- 3-Day Skills Building Workshop (propose opening it to all interpreters)

May 9-10, 2019- 2-Day Advance Skill-Building Workshop (for interpreters taking the OPE only)

Oral Proficiency Exam

May 30, 2019 - Mock Oral Proficiency Exam

June 20-21, 2019- Oral Proficiency Exam

Additional Workshop

Mock Trial on April 5, 2019 (held in conjunction with Idaho Administrative Office of the Courts, in Pocatello, ID)

ASL Orientation

February 1, 2019- Winter Orientation

August 2, 2019- Summer Orientation

The Committee discussed opening the three-day skills-building workshops to conditionally approved interpreters and opening the mock trial to ASL interpreters. It was requested to see if the mock trial training could be approved for continuing education hours for ASL interpreters.

(6) Utah Language Access Plan

Ms. Mann stated the Language Access Plan was created in 2009, and updated in 2011, which was eight years ago. Ms. Mann reviewed the August 9, 2011, version of the Plan and listed the out of date information includes: 1.) population data from the 2000 Census; 2.) interpreter usage numbers from 2008, 2009, and 2010; 3.) out of date court rules for using court interpreters; and 4.) the guidelines used for the basis of Plan. Ms. Mann advised she would like to update the Language Access Plan as one of the committee's projects for 2019, and asked for the committee's opinions. It was discussed if the committee should update the Plan since the 2020 Census is next year. Ms. Mann advised a Language Plan is designed to inform courts and court personnel on the process and requirements for providing a court interpreter, and census data doesn't necessarily have to be included. Ms. Mann suggested the committee not wait to update the Plan solely because of an upcoming Census. The committee discussed having Ms. Mann flag the problem areas of the Plan in a Microsoft Word doc for committee members to review, and then having members volunteer to work on the Plan. The committee discussed if the Plan should be updated by a subcommittee or by having each member work on certain sections.

There was a question of whether the checklist created by the Brennan Center for Justice has been updated since 2011. Ms. Mann advised the DOJ release a toolkit for states to develop their Language Access Plan in 2013, and she would suggest the committee consider the DOJ's toolkit when updating the Plan.

The committee discussed if the Judicial Council needs to grant approval if the committee is going to make major changes to the Language Access Plan.

Ms. Mann confirmed she will provide the committee with the Plan in a Word format for the next meeting with comments and ask for volunteers.

(7) Other Business.

Ms. Draper noted that she and Ms. Mann would be presenting to the Judicial Council next month and they would share the feedback from the Council at the next committee meeting in March.

(8) Adjourn

There being no further business, the meeting adjourned at 1:34 p.m.