

1 ~~**Rule 3-306.05. Interpreter removal, discipline, and formal complaints.**~~

2
3 ~~**Intent:**~~

4 ~~To outline the procedures for interpreter removal and discipline.~~

5 ~~**Applicability:**~~

6 ~~This rule shall apply to the Language Access Program Manager, the Language Access Program~~
7 ~~Coordinator, the Language Access Committee, interpreter coordinators and contract~~
8 ~~interpreters.~~

9 ~~**Statement of the Rule:**~~

10 ~~(1) Removal from legal proceeding. The appointing authority may remove an interpreter from~~
11 ~~the legal proceeding for failing to appear as scheduled, for inability to interpret adequately,~~
12 ~~including a self-reported inability, and for other just cause.~~

13 ~~(2) Discipline.~~

14 ~~(2)(A) An interpreter may be disciplined for:~~

15 ~~(2)(A)(i) knowingly making a false interpretation in a legal proceeding;~~

16 ~~(2)(A)(ii) knowingly disclosing confidential or privileged information obtained in a legal~~
17 ~~proceeding;~~

18 ~~(2)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional~~
19 ~~Responsibility and this rule;~~

20 ~~(2)(A)(iv) failing to pass a background check;~~

21 ~~(2)(A)(v) failing to meet continuing education requirements;~~

22 ~~(2)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; (2)(A)(vii) failing to~~
23 ~~appear as scheduled without good cause;~~

24 ~~(2)(A)(viii) unprofessional behavior toward a client, judge, court staff, court security, or~~
25 ~~Language Access Committee member; and~~

26 ~~(2)(A)(ix) being charged with, or convicted of, a crime.~~

27 ~~(2)(B) Discipline may include:~~

28 ~~(2)(B)(i) permanent loss of certified or approved credentials;~~

29 ~~(2)(B)(ii) temporary loss of certified or approved credentials with conditions for reinstatement;~~

30 ~~(2)(B)(iii) suspension from the roster of certified or approved interpreters with conditions for~~
31 ~~reinstatement;~~

32 ~~(2)(B)(iv) prohibition from serving as a conditionally approved interpreter;~~

33 ~~(2)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for~~
34 ~~reinstatement; and~~

35 ~~(2)(B)(vi) reprimand.~~

36 ~~(3) As long as he or she complies with rule 3-306.04, an interpreter coordinator has the~~
37 ~~discretion to decline to assign an interpreter listed on the statewide interpreter roster.~~

38 ~~(4) Filing of formal complaints.~~

39 ~~(4)(A) Any person may file a formal complaint about a matter for which an interpreter can be~~
40 ~~disciplined. A party, witness, victim or person who will be bound by a legal proceeding, may file~~
41 ~~a formal complaint about the misapplication of this rule.~~

42 ~~(4)(B) A formal complaint shall be filed with the Language Access Program Coordinator.~~
43 ~~However, the Language Access Program Coordinator may file a formal complaint with the~~
44 ~~Language Access Program Manager, in which case, the program manager will fulfill the~~
45 ~~program coordinator's responsibilities under this rule.~~

46 ~~(4)(C) The complaint shall allege an act or omission for which an interpreter can be disciplined~~
47 ~~or that violates this rule. The complaint shall be in writing and signed. The complaint may be in~~
48 ~~the native language of the complainant, which the AOC shall translate in accordance with this~~
49 ~~rule. The complaint shall describe the circumstances of the act or omission, including the date,~~
50 ~~time, location and nature of the incident, and the persons involved.~~

51 ~~(5) Investigation by program coordinator.~~

52 ~~(5)(A) The program coordinator may dismiss the complaint if it is plainly frivolous, insufficiently~~
53 ~~clear, or does not allege an act or omission for which an interpreter can be disciplined or that~~
54 ~~does not violate this rule.~~

55 ~~(5)(B) If the complaint alleges that the court did not provide language access as required by this~~
56 ~~rule, the program coordinator shall investigate and recommend corrective actions that are~~
57 ~~warranted.~~

58 ~~(5)(C) If the complaint alleges an act or omission for which the interpreter can be disciplined, the~~
59 ~~program coordinator shall mail the complaint to the interpreter at the address on file with the~~
60 ~~administrative office of the courts and proceed as follows:~~

61 ~~(5)(C)(i) The interpreter shall answer the complaint within 30 days after the date the complaint is~~
62 ~~mailed or the allegations in the complaint will be deemed to be true and correct. The answer~~
63 ~~shall admit, deny or further explain each allegation in the complaint.~~

64 ~~(5)(C)(ii) Unless the program coordinator determines the allegation in the formal complaint to be~~
65 ~~egregious, the interpreter shall remain on the court interpreter roster until a final decision on~~
66 ~~discipline has been made.~~

67 ~~(5)(C)(iii) The program coordinator may review records and interview the complainant, the~~
68 ~~interpreter and witnesses. After considering all factors, the program coordinator may propose a~~
69 ~~resolution, which the interpreter may stipulate to. The program coordinator may consider~~
70 ~~aggravating and mitigating circumstances such as the severity of the violation, the repeated~~
71 ~~nature of violations, the potential of the violation to harm a person's rights, the interpreter's work~~
72 ~~record, prior discipline, and the effect on court operations.~~

73 ~~(5)(C)(iv) When the investigation of the formal complaint is complete, the program coordinator~~
74 ~~shall notify the interpreter, in writing, of the proposed resolution. Within 15 days of the proposed~~
75 ~~resolution, the interpreter shall, in writing, either accept the discipline by consent or request a~~
76 ~~hearing by a panel of the Language Access Committee. If the interpreter fails to respond to the~~
77 ~~program coordinator's proposed resolution, or fails to request a hearing within 15 days, the~~
78 ~~interpreter will be deemed to have stipulated to the proposed resolution.~~

79 ~~(6) Hearing by panel.~~

80 ~~(6)(A) The program coordinator shall notify the chair of the Language Access Committee if the~~
81 ~~interpreter requests a hearing by a panel. The chair of the Language Access Committee shall~~
82 ~~assign three members of the Committee, including one interpreter, to serve on the panel for the~~
83 ~~hearing, and shall assign one of the panel members to chair the hearing. The chair of the panel~~
84 ~~is responsible for sending notice to the interpreter, the complainant and the program~~
85 ~~coordinator.~~

86 ~~(6)(B) The hearing before the panel is private and closed to the public. The hearing shall be~~
87 ~~recorded. The hearing is informal and is not governed by the Rules of Civil Procedure and the~~
88 ~~Rules of Evidence. The interpreter, the complainant, and the program coordinator may attend~~
89 ~~the hearing. The interpreter and the program coordinator may each bring counsel to the hearing.~~
90 ~~The chair may limit others in attendance to those persons reasonably necessary to the~~
91 ~~proceedings. The program coordinator and the interpreter may submit exhibits and call~~
92 ~~witnesses. Panel members and staff may not disclose or discuss information or materials~~
93 ~~outside of the meeting except with others who participated in the meeting or with a member of~~
94 ~~the panel.~~

95 ~~(6)(C) If any party fails to appear, the panel may proceed on the evidence before it. If the~~
96 ~~complainant fails to appear, the panel may dismiss the Formal Complaint.~~

97 ~~(6)(D) The panel shall determine by a majority whether there is a preponderance of evidence of~~
98 ~~the alleged conduct or omission, and whether the alleged conduct or omission violates this rule~~
99 ~~or the Code of Professional Responsibility. Within 30 days, the panel chair will inform the~~
100 ~~program coordinator, the interpreter, and the complainant, in writing, of its decision and the~~
101 ~~findings of fact supporting it. The panel may discipline the interpreter as provided under~~
102 ~~paragraph (2)(B), including permanently removing the interpreter's credentials.~~

103 ~~(6)(E) The interpreter may appeal the decision to the Language Access Committee by sending a~~
104 ~~written request to the program coordinator within 15 days of the date of the panel's decision.~~

105 ~~(7) Appeal hearing before the Language Access Committee.~~

106 ~~(7)(A) The committee chair and at least one interpreter member shall attend the hearing before~~
107 ~~the Language Access Committee. If a committee member is the complainant or the interpreter,~~
108 ~~the committee member is recused. Members of the panel are also recused. The program~~
109 ~~coordinator shall mail notice of the date, time and place of the hearing to the interpreter and the~~
110 ~~complainant. At least 6 days before the hearing, the interpreter and program coordinator may~~
111 ~~submit briefs and exhibits, which the committee shall review. The information the committee~~
112 ~~may consider is limited to information presented to the panel. The hearing is closed to the~~
113 ~~public. Committee members and staff may not disclose or discuss information or materials~~
114 ~~outside of the meeting except with others who participated in the meeting or with a member of~~
115 ~~the Committee. The committee may review records and interview the interpreter, the~~
116 ~~complainant and witnesses. A record of the proceedings shall be maintained but is not public.~~

117 ~~(7)(B) The committee shall decide whether the panel abused its discretion in making its decision.~~
118 ~~If the committee determines the panel abused its discretion, the committee may dismiss the~~
119 ~~Formal Complaint or discipline the interpreter differently as appropriate. If the committee~~
120 ~~determines that the panel did not abuse its discretion, the interpreter shall be disciplined~~
121 ~~according to the panel's decision. The chair of the committee, or the chair's designee, shall~~
122 ~~issue a written decision and analysis on behalf of the committee within 30 days after the~~
123 ~~hearing. The program coordinator shall mail a copy of the decision to the interpreter. The~~
124 ~~committee's decision is final.~~

125 ~~(7)(C) The interpreter may review and, upon payment of the required fee, obtain a copy of any~~
126 ~~records to be used by the committee. The interpreter may attend all of the hearing except the~~
127 ~~committee's deliberations. The interpreter may be represented by counsel and shall be~~
128 ~~permitted to make a statement, call and interview the complainant and witnesses, and comment~~
129 ~~on the claims and evidence. The interpreter may obtain a copy of the record of the hearing upon~~
130 ~~payment of the required fee.~~

131 ~~(8) If the interpreter is certified in Utah under rule 3-306.03(1), the program coordinator, panel or~~
132 ~~committee may report any final findings and sanction to other agencies and certification~~
133 ~~authorities in other jurisdictions.~~

134 *Effective: 5/1/2016*