

Utah State Office of Rehabilitation
Division of Services to the Deaf and Hard of Hearing

POLICIES & PROCEDURES

GOVERNING

CERTIFICATION

OF

INTERPRETERS AND TRANSLITERATORS

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INTRODUCTION

The Americans With Disabilities Act (ADA) was passed into law July 26, 1990. The ADA held the promise of helping to end discrimination against people with disabilities. The ADA supported the desire of the majority of Utahns to provide opportunities for full participation and integration into the mainstream of our communities to individuals with disabilities. Utahns and their elected representatives then took definitive action to ensure and provide direction in protecting individual rights under this Act. As part of this action, the 1993 Legislature passed House Bill 161. This bill mandated a study to develop a master plan for statewide interpreter services to the deaf. As a result, Senate Bill 41, Utah Code 53A-26a-305 (see Appendix A) was passed. The law provided for the development of policies and procedures for interpreter certification. The law also mandated the establishment of standards for the practice of the profession.

This document demonstrates the commitment of Utah citizens to ensure that people with significant hearing loss are provided the opportunities of inclusion covered by the ADA. The policy and procedures detailed in this document are designed to achieve the provision of quality interpreter services, recognizing the reality of a shortage of certified interpreters, a lack of statewide interpreter training programs, and few incentives for Utahns to enter or stay in the profession of interpreting for the deaf.

These policies and procedures have been developed by the Utah State Office of Rehabilitation (USOR) Division of Services for the Deaf and Hard of Hearing (DSDHH) Certification Advisory Board and approved by the Utah State Board of Education.

The policies and procedures outlined in this document are founded on the philosophy that all individuals have the right to a barrier-free environment that allows maximum participation in society based upon capabilities, not limitations.

This document is based on the following principles:

Utahns who are deaf or have significant hearing loss have the right, responsibility, and desire to fully participate in and contribute to the families and communities in which they live.

The mode of communication should be provided according to the consumer's choice.

Interpreters, transliterators, and consumers of interpreting/transliterating services will strive to realize the highest possible quality of interpreter provision.

Utah certified interpreters/translitterators are responsible to accept assignments within the limits of their abilities and practice according to the standards outlined in this document.

Interpreters/translitterators will provide services in a professional manner consistent with the established Code of Ethics.

The consumer has the responsibility of informing the provider of the nature of the interpreting setting and circumstances.

The consumer or any person involved with or witnessing the perceived violation has the responsibility of reporting said perceived code of ethics and/or professional practice violation when he/she is personally affected either physically or emotionally by the perceived violation.

The policies and procedures adopted in this document may be amended or revised by designated representatives of the Utah State Board of Education when determined necessary for the enhancement of interpreter and transliterator services in Utah.

I. PURPOSE AND AUTHORITY

PURPOSE

During the 1994 general session of the Utah State Legislature, Senate Bill 41 was enacted and became law Utah Code 53A-26a-101 (see Appendix A). The act, relating to the deaf and hard of hearing, ensures quality and competent interpreter/transliterators services by:

“...providing for certification of interpreters (and transliterators) for the hearing impaired; providing definitions; providing for an Interpreter Certification Board; requiring certification to provide interpretive [and transliterative] services, except as otherwise exempted; providing for denial of certification and for disciplinary proceedings; providing a penalty; and providing an effective date.”

AUTHORITY

Under Utah Code 53A-26a-101, the Utah State Board of Education is designated as the entity to oversee the activities by which the directives and purpose of the law are to be satisfied. Under the same authority, an Interpreter Certification Board, consisting of 11 members, was created to assist the State Board of Education with its responsibilities relating to certification of interpreters/transliterators. The Utah Certification Board reserves the right to adopt, expand or restrict the levels of certification, definition of levels, allowable practices, length of certification, certification renewal, and the certification process as needed (see appendix G for any changes in policy).

The State Board has assigned the Utah State Office of Rehabilitation (USOR) to establish policies and procedures by which certification of interpreters/transliterators for the hearing impaired will occur in Utah.-The Division of Services for the Deaf and Hard of Hearing (DSDHH), under the direction of USOR, serves as the operational entity by which certification of interpreters and transliterators for the deaf occurs. The DSDHH may, while retaining jurisdiction in the certification procedure, designate specific entities to administer all or part of either the interpretation or transliteration test process.

A sign language interpreter is defined the State of Utah as an individual who utilizes a standardized system of sign language to change communication from spoken to sign and from sign to spoken, conveying all elements of the communication and maintaining dynamic equivalence.

II. CERTIFICATION PROCESS

POLICY

The Division of Services for the Deaf and Hard of Hearing (DSDHH) shall provide a fair and impartial method to determine candidacy for certification as an interpreter/transliterater. Certification will be based on demonstration of compliance with the requirements established by the Utah State Board of Education.

PROCEDURE

Qualifications for Candidacy for Interpreter/Transliterater

The Director of Certification shall determine candidacy compliance for certification by the following completed requirements:

1. Candidate must have submitted a completed application for candidacy.
2. Candidate must be of good and ethical moral character.
3. Candidate must have a high school diploma, GED, or equivalent.
4. Candidate must be eighteen (18) years or older.

Application for Candidacy

Any individual seeking approval as a candidate for certification must submit the following documents to the Director of Certification *three (3) weeks prior to certification*:

1. A completed certification application.
2. The applicable certification application fee.

Notification of Candidacy

Testing candidates shall receive notification of approval or denial of candidacy for certification from UIP one (1) week prior to testing. The approved candidate shall be notified of the date, time, and location of his/her examination at the time of notification.

If the candidate does not sit for his/her scheduled written or performance-based examination and does not notify the Director of Certification 72 hours prior to the examination date, he/she forfeits the examination fee and must submit a new application and fee to be considered a candidate for certification.

If the candidate notifies the director that he/she cannot sit for the scheduled written or performance-based examination, the candidate may be required to pay an additional application fee but will still be considered an approved candidate. The candidate may then reschedule for an examination date.

Cancellation Policy

Any cancellation of approved candidate's test appointment will result in the assessment of the following penalty:

1. Cancellation one (1) week prior to certification testing is fifty percent (50%) of the applicable testing fee.
2. Cancellation less than seventy-two (72) hours prior to testing, or failing to appear at all for testing, "no show" shall result in one hundred percent (100%) of the applicable testing fee.

III. CERTIFICATION EXAMINATION PROCESS

POLICY

The Division of Services for the Deaf and Hard of Hearing (DSDHH) shall provide a fair and impartial method of examination of a candidate for certification as a sign language interpreter.

PROCEDURE

Examinations

Examinations shall be required to determine qualification for all levels of certification. All examination instruments and materials shall be reviewed by the Utah Certification Advisory Board and approved by the DSDHH Director of Certification prior to the use of the instruments and materials in determining certification qualifications.

Two phases of testing shall be administered to determine if a candidate is qualified for certification.

Phase One: Written Examination

The first phase of testing is a standard written examination which evaluates the candidate's knowledge of the interpreter/transliterators Code of Professional Conduct, history, and role. The candidate must pass the written portion of the examination prior to taking the performance-based section. The written examination shall be given to a candidate regardless of the level of certification for which he/she has applied. Passage of the written test is valid for five (5) years from the date of the test, or while certification remains active.

Phase Two: Performance-Based Examination

Phase two of the certification examination process is a performance-based examination. The performance-based examination evaluates the candidate's knowledge and skill relevant to the certification level for which he/she is a candidate.

The performance-based examination shall be given to a candidate who:

1. Has passed the written examination.
2. Is an approved candidate for the certification level that he/she is seeking.
3. Has remitted the performance-based examination fee.
4. Has been scheduled for the examination.
5. Has had sufficient time on the day of the scheduled performance test to adequately warm up by previewing the provided materials.

Examination Scheduling

Once an individual has been approved for candidacy, they shall be made to accommodate a candidate's schedule in so far as it is practical, and convenient for both the agency as well as the candidate. Testing will be sponsored by the Utah Interpreter Program monthly.

Examination Procedures

The written examination shall be supervised by the Director of Certification or his/her designee. The candidate shall complete the examination in the presence of an assigned DSDHH test proctor.

The performance-based examination shall be supervised by the Director of Certification or his/her designee. The examination shall be conducted at the Robert G. Sanderson Community Center of the Deaf and Hard of Hearing or other DSDHH-approved locations.

Each candidate shall be allowed the opportunity to utilize a training booth equipped with DVD and video tapes, for the purpose of warming up, at least 60 minutes prior to the examination.

Each candidate shall be recorded while he/she demonstrates expressive and receptive language skills.

Each candidate shall be assigned to a test proctor who will provide test instructions, assist the candidate with video and audio equipment, and collect the completed test materials.

Notification of Examination Results

Written Examination

The Director of Certification shall mail or e-mail notification of passing or failing the written examination to the candidate within ten (10) working days of completing the examination. A successful candidate can sign up for the performance-based examination at this time. A candidate who fails the written examination must resubmit an application, including fee, and again be approved for candidacy for certification prior to retesting. Written examination results will ONLY be provided through mail due to confidentiality.

Performance Examination

The Director of Certification shall mail notification of passing or failing results of the Performance Test up to 16 weeks of the examination.

Note: An Professional candidate who fails portions of the examination shall have an additional opportunity during which time he/she shall be required to sit only for the test components(s) he/she failed as long as he/she takes the test components failed within twelve (12) months from the date of the original results notification. Any candidate who fails all components of the test must apply to retake the entire test, including payment of the testing fee.

A candidate's recorded performance on DVD shall remain in the DSDHH office for thirty (30)

days from the date of notification of test results. Unless the test has been appealed, DVD may be destroyed or used as inter- and intra-rater reliability check tapes, assuming a release has been signed.

Those individuals who are waiting for testing results may not sit for an additional exam of the same level until they have received their results from the current exam.

Scoring of Performance Examination

Within twenty-one (21) working days of the completion of the examination, the Director of Certification shall distribute the candidate's performance examination to a DSDHH-approved certification rating team.

The rating team shall be appointed by the Director of Certification. Team members shall be trained in rating procedures prior to functioning as raters. The rating team shall review and score the examination utilizing the DSDHH-approved rating procedures. The examination materials and rating form shall be returned to the Robert G. Sanderson Community Center of the Deaf and Hard of Hearing within the time frame determined by the Director of Certification.

Appeal of Examination Process

A candidate may file an appeal at the time of testing or at any time up to 30 days from the date of notification of his/her test results. Appeals received after the 30-day limit shall not be reviewed.

An appeal must be in writing and delivered by certified mail to the DSDHH Director of Certification. The candidate filing the appeal shall include in the appeal a complete explanation of the event(s) that occurred at the testing session which he/she feels was a deviation from specific examination procedures.

The DSDHH Director of Certification shall hear an appeal of the examination results filed by a certification candidate only when he/she claims that the prescribed examination procedures (see IV. Certification Examination Procedures, C. p. 5) were not followed. An appeal will not be reviewed on the basis of disagreement with the judgment of the rater(s) of the examination.

The Director of Certification shall include in his/her review (but is not limited to) the following information:

1. The candidate's written statement.
2. The candidate's performance test DVD.
3. Documentation submitted by any concerned party.
4. The certification policy and procedure manual.

Upon review of the aforementioned information, the DSDHH Director of Certification shall determine the merit of the appeal as it pertains to examination procedures, and either grant or deny the candidate's appeal. If the appeal is granted, the candidate may be scheduled for the next examination, and shall be required to sit only for the test component(s) they failed.

The appeal decision shall be sent to the candidate within 45 days of receiving the request for appeal. No fee shall be charged for an appeal. If the appeal is granted, the candidate may be scheduled for the next examination. The candidate shall be required to sit only for the test component(s) he/she failed. The candidate shall not be assessed any additional fees for the examination.

Appeal fees—No fee shall be charged for an appeal. Further, if the appeal is granted and the candidate is scheduled for further examination, no fee shall be assessed for said further examination by the candidate.

The candidate may request a review of the director's decision, which is conducted by the Certification Advisory Board of Appeals Committee by submitting their request in writing to the Certification Advisory Board of Appeals Committee within thirty (30) days of receiving the appeal decision. The chair of the Certification Advisory Board and two (2) other members designated by the chair shall then review the director's decision and uphold or override the decision. The Certification Advisory Board chair shall notify both the candidate and the Director of Certification of the decision within forty-five (45) days of receipt of the review request.

IV. CERTIFICATION OF INTERPRETER/TRANSLITERATORS

POLICY

Certification of interpreters/transliterators for the deaf will be based on demonstration of compliance with the requirements established by the Utah State Board of Education.

PROCEDURE

Please refer to Appendix G for any amendments or additions to this section.

Definition of Certification Levels

Temporary Permit Holder (not a certification level): an individual who either because of relocation or limited experience and training has not yet taken or passed the Utah Certification Test, but because of urgent or emergency circumstances has been requested to provide services. As no level of skill has been ascertained, this person should only provide fundamental communication services in the specific situation for which the permit has been granted.

Novice Interpreter/Transliterators: an individual who has not had the opportunity to develop the required skills that would allow him/her to function in any but the most simple of situations.

Professional Interpreter/Transliterators: an individual who has gained the skills, knowledge, and judgement to be able to facilitate communication in almost any situation, including even the very complex.

Length of Certification

Temporary Permit

The temporary permit is intended as a temporary solution to extraordinary circumstances. It is granted by the Director of Certification to both the requesting agency and the interpreter/transliterators on a contractual basis. The permit remains in force for the amount of time agreed upon by the sponsoring agency, the interpreter/transliterators, and the Director of Certification as long as the conditions of the professional development plan are met. If the interpreter/transliterators is functioning under the additional mentoring requirement, they must also be able to document meeting with a mentor twelve or more hours a month. The maximum time a temporary permit shall remain in effect is one year. The requirements of the temporary permit are no longer enforced if the interpreter/transliterators passes the Utah Certification Test at any level.

Novice Certification

The Novice certification is intended for those who are at an entry level to the practice of sign language interpreting or transliterating and is not renewable after three (3) years. Novice interpreter/transliterators must renew their certification each year for a maximum

of four (4) years, after which certification at a higher level (or optional certification recognized by the Utah State Board of Education) must be achieved in order to continue practicing as an interpreter/transliterator. Initial testing for a higher level must be initiated prior to the completion of the four-year time period.

A Novice interpreter/transliterator who has been unable to complete all sections of the Professional examination within the allotted time frame and whose certification is therefore no longer valid may only test again at the novice level after a waiting period of four (4) years from the date of certification expiration. Testing for a higher level may occur at any time. A novice interpreter/transliterator with extenuating circumstances may document their situation and submit all pertinent records to the Certification Advisory Board Appeals Committee for review.

Professional and Master Certification

Professional and Master interpreters and transliterators function on a three-year cycle of certification maintenance. (See the Certification Maintenance section below). If all conditions are met during the specified interval, there will be no requirement to re-certify and a new three-year cycle will begin.

Any interpreter/transliterator may, at any time, elect to attempt a higher level of the Utah Certification Test. Upon notification of passing to the higher Utah level, the interpreter/transliterator is automatically transferred to the requirements of that level and a new renewal cycle begins. If a higher level of certification is attempted but not passed, the interpreter/transliterator will continue at the current Utah certification level until it expires, is revoked, or the higher level of test is attempted and passed.

Certification Renewal

There are annual renewal requirements for all levels. To maintain certification, renewal of certification for all levels includes the following requirements, which must be met before the expiration date of the certification as listed on the interpreter/transliterator's certification identification card and in the permanent DSDHH file:

Novice:

- payment of annual maintenance fee
- completion of annual maintenance form
- completion of 20 approved workshop hours annually

Professional and Master:

- payment of annual maintenance fee
- completion of annual maintenance form
- completion of 60 approved workshop hours every three years

If the interpreter/transliterator allows his/her certification to expire, re-certification will be necessary, including testing on the Written Exa, if it has been more than five (5) years since the interpreter/transliterator was tested on current practices in the profession as well as knowledge of the Code of Professional Conduct. If necessary, an interpreter/transliterator may re-certify at the Professional level at any time, but may only re-certify at the Novice level after three years from date of expiration.

To be considered for certification renewal, an interpreter/transliterators must submit the certification renewal form to the Director of Certification prior to the expiration of his/her current certification. Certification renewal forms will be accepted up to two (2) months prior to expiration of certification, and up to seven (7) days after date of expiration accompanied by the standard late fee.

The Director of Certification shall review the interpreter/transliterators's Certification Renewal Form and determine if the qualifications for renewal have been met. If the qualifications for renewal have been met, the Director of Certification will notify the interpreter within 15 working days of receiving the Certification Renewal Form. If the qualifications for renewal have not been met, the Director of Certification will notify the interpreter/transliterators within 15 working days of receiving the Certification Renewal Form.

Upon notification of denial of renewal, the interpreter/transliterators may schedule a review of the request for renewal with the Director of Certification up to the date of the expiration of his/her certification.

Certification From Other States or Organizations

In addition to DSDHH Utah interpreter certification, the State Board of Education recognizes the following certifications: 1) RID (Registry of Interpreters for the Deaf), CI, CT, CDI; 2) NAD level IV or above; 3) EIPA (Educational Interpreter Performance Assessment), 4.0 or above; and 4) NIC (National Interpreter Certification)

Certified interpreters shall be required to follow the guidelines, principles and Code of Professional Conduct as outlined by the individual certifying organization. To be recognized in the state of Utah, interpreters/transliterators with national certification must apply for recognition of certification annually with the DSDHH Utah Interpreter Program.

National certification ethical and/or practical concerns will be handled under the grievance process of the national certifying organization. The Utah State Board of Education will have authority to grant or deny authorization to interpret in the state of Utah. The Director of Certification will annually verify the status of reported certified interpreters. An interpreter/transliterators certified under another state system must apply for and meet the requirements of Utah certification for interpreters/transliterators of the deaf prior to practicing in Utah.

Requirements for each certification include:

RID/NAD

- Annual UIP recognition application and fee

EIPA (Elementary is limited to K-6 classroom settings only; Secondary is limited to 7-12 classroom settings only)

- Pass the Utah Written Exam or the EIPA Written Test and Knowledge Standards
- Annual UIP recognition application and fee
- EIPA passing score of 4.0 or higher
- Complete 20 State-approved workshop hours annually

NOTE: Candidates with EIPA-Educational Interpreter Performance Assessment of 3.5-3.9 may be recognized for a maximum of four (4) years after which they are then required to advance to a score of 4.0. Also, Novice and EIPA levels are not allowed to piggy-back at 3.5 for four (4) years at each level, but only for a combined total of four (4) years.

V. Cued Language

Definition of Levels

Temporary Permit Holder (not a certification level): an individual who either because of relocation or limited experience and training has not yet taken or passed the CLTSLA (Cued Language Transliterators State Level Assessment), but because of urgent or emergency circumstances has been requested to provide services. As no level of skill has been ascertained, this person should only provide fundamental communication services in the specific situation for which his/her permit has been granted.

Level I Transliterators--Basic: an individual who performs with limited skills and/or knowledge of function which may limit client comprehension and development.

Level II Transliterators--Functional: an individual who performs with adequate skills and/or knowledge of function which may limit client comprehension and development.

Level III Transliterators--Competent: an individual who performs with substantial skills and/or knowledge of function.

Level IV Transliterators--Proficient: an individual who performs with comprehensive skills and knowledge of function.

Allowable Practices

The CLT must only accept assignments in which he/she is able to effectively deliver the message with sufficient speed and accuracy. The CLT at all times must be cognizant of high stakes settings, whereupon qualification for such assignments as determined, are selected in certification level descriptions.

Because of the nature of the Cued Language Assessment, **Allowable Practices** are not applicable.

Length of Certification

Temporary Permit

The Temporary Permit is intended as a temporary solution to extraordinary circumstances. It is granted by the Director of Certification to both the requesting agency and the transliterator on a contractual basis. The permit remains in force for the amount of time agreed upon by the sponsoring agency, the transliterator, and the Director of Certification, as long as the conditions of the professional development plan are met. If the transliterator is functioning under the additional mentoring requirements, he/she must also be able to document meeting with a mentor twelve or more hours a month. The maximum time a temporary permit shall remain in effect is one year. The requirements of the temporary permit are no longer enforced if the transliterator passes the Utah Certification Test at any level.

Level I - Basic

Level I certification is intended for those who are at an entry level to practice of cued language transliterating. Candidates must retest after one year. In the event that the candidate does not advance to a Level II or higher at this testing, the candidate will no longer be certified.

Level II - Functional

Level II certification is intended as a level of emerging proficiency. Candidates must retest after one year. In the event that the candidate does not advance to a Level III or higher at this testing, the candidate will no longer be certified.

Level III - Competent

Level III certification is intended as a level of substantial skill. Candidates must retest after two years. In the event that a candidate regresses to Level II or lower, the candidate will no longer be certified. If candidates do not advance to Level IV at this testing, they must retest in two years.

Level IV - Proficient

Level IV certification is intended as a level of comprehensive skill and knowledge.

Any transliterator may, at any time, elect to attempt either a higher level of the Utah Cued Language State Level Assessment or the Cued Language Transliterator National Assessment. Upon notification of passing to the higher Utah level, the transliterator is automatically transferred to the requirements of that level and a new renewal cycle begins. Transliterators who pass the national assessment are required to inform the Utah Interpreter Program, or they will continue to be subject to the requirements of their current Utah certification level.

Certification Renewal

To maintain certification, there are annual renewal requirements for all levels. The only exception is for the temporary mentored permit holders. These permits will be reviewed quarterly to ensure that the interpreter/ transliterator is meeting the conditions of the professional development plan and meeting with a mentor for the agreed-upon number of hours monthly.

Renewal of certification for all other levels includes the following requirements, which must be met before the expiration date of the certification as listed on the interpreter/transliterator's certification identification card and in the permanent DSDHH file:

Levels III, IV:

- payment of annual maintenance fee
- completion of annual maintenance form
- completion of 20 approved workshop hours annually

If the transliterator allows his/her certification to expire, recertification will be necessary.

To be considered for certification renewal, a transliterator must submit to the Director of Certification a Certification Renewal Form at least one month prior to the expiration of his/her

current certification. Certification Renewal Forms will be accepted up to two (2) months prior to expiration of certification and up to seven (7) days after date of expiration if accompanied by a late fee.

The Director of Certification shall review the transliterator's Certification Renewal Form and determine whether the qualifications for renewal have been met. If the qualifications for renewal have not been met, the Director of Certification will notify the transliterator within 15 working days of receiving the Certification Renewal Form.

Upon notification of denial of renewal, the transliterator may schedule a review of the request for renewal with the Director of Certification up to the date of the expiration of his/her certification.

Certification From Other States or National Organizations

The only interpreter certification recognized by the State Board of Education, other than the DSDHH CLTSLA (Cued Language Transliterator State Level Assessment), is the CLTNCE (Cued Language Transliterator National Certification Examination).

Transl iterators with other state-level certification endorsed by the TECUnit (Training, Evaluation and Certification Unit) will be accepted in Utah at their current level of certification with the same renewal requirements.

Examinations

Examinations shall be required to determine qualification for all levels of certification. All examination instruments and materials shall be reviewed by the Utah Certification Advisory Board and approved by the DSDHH Director of Certification prior to the use of the instruments and materials in determining certification qualifications.

Two phases of testing shall be administered to determine whether a candidate is qualified for certification.

Phase One: Written Examination

The Written Assessment is designed to serve as a medium through which an individual's knowledge of information fundamental to the role and responsibilities of a cued language transliterator can be measured and documented. Included are questions pertaining to situational applications of the Transliterator Code of Conduct (Metzger & Fleetwood), the Code of Professional Conduct of the Registry of Interpreters for the Deaf, Inc., logistical and cultural issues in facilitation communication, cueing research, interpreting/transliterating terminology, and relevant organizations. Candidates who pass the Written Assessment with 70% accuracy will be notified by mail within two weeks after taking the Written Assessment.

Phase Two: Performance-Based Examination

Phase two of the certification examination process is a performance-based examination. Each task, expressive and receptive, has been formulated such that it parallels actual transliterating situations with regard to setting, consumer background, function of a cued language transliterator, speed of message (as measured in syllables per second), and diversity of topics, as well as how the information lends itself to chunking strategies.

The performance-based examination shall be given to a candidate who:

1. Has passed the written examination.
2. Has remitted the performance-based examination fee.
3. Has been scheduled for the examination.
4. Has had sufficient time on the day of the scheduled performance test to adequately warm up by previewing the provided materials.

Examination Scheduling

If an individual has been approved for candidacy, he/she shall be scheduled for a certification examination. Every effort shall be made to accommodate a candidate's schedule insofar as it is practical. Testing will be sponsored by the Division of Services of the Deaf and Hard of Hearing a minimum of four times annually.

Examination Procedures

The written examination shall be supervised by the Director of Certification or his/her designee. The candidates shall complete the examination in the presence of an assigned DSDHH test proctor.

The performance-based examination shall be supervised by the Director of Certification or his/her designee. The examination shall be conducted at the Robert G. Sanderson Community Center of the Deaf and Hard of Hearing or other DSDHH-approved locations.

Each candidate shall be allowed the opportunity to utilize a training booth equipped with audio- and video- tapes, for the purpose of warming up, at least 60 minutes prior to the examination.

Each candidate shall be videotaped while he/she demonstrates expressive and receptive language skills.

Each candidate shall be assigned to a test monitor who will provide test instructions, assist the candidate with video and audio equipment, and collect the completed test materials.

Scoring of Examination

Within 21 days of the completion of the examination, the Director of Certification shall distribute the candidate's examination tapes to a TECUnit.

Rating of the expressive and receptive skills portion of the assessment shall be completed by the Training, Evaluation and Certification Unit. The examination materials and rating form shall be returned to the Robert G. Sanderson Community Center of the Deaf and Hard of Hearing within the time frame determined by the TECUnit.

Notification of Examination Results

Written Examination

The director of transliterator assessment shall notify the candidate of passing or failing the written examination. The results of the Written Assessment shall be mailed within 10 working days. A successful candidate will be scheduled for the performance-based examination at this time. A candidate who fails the written examination must resubmit an application, including fee, and again be approved for candidacy for certification prior to retesting.

Performance Examination

The Director of Certification shall mail notification of passing or failing results

A candidate who fails the performance-based examination shall be notified by the Director of Certification within two weeks of the receipt of the completed rating forms.

Note: A candidate who fails portions of the examination shall have an additional opportunity during which time he/she shall be required to sit only for the test component(s) he/she failed as long as he/she takes the test components failed within one year from the date of the original exam. Any candidate who fails all components of the test must apply to retake the entire test, including payment of the testing fee.

Unless the test has been appealed, tapes may be erased or used as inter- and intra-rater reliability check tapes, assuming a release has been signed.

Appeal of Examination Process

The DSDHH Director of Certification shall hear an appeal of the examination results filed by a certification candidate only when he/she claims that the prescribed examination procedures (see IV. Certification Examination Process, C. p. 5) were not followed. An appeal will not be reviewed on the basis of disagreement with the judgement of the rater(s) of the examination.

A candidate may file an appeal at the time of testing or at any time up to 30 days from the date of notification of his/her test results. Appeals received after the 30-day limit shall not be reviewed.

An appeal must be in writing and delivered by certified mail to the DSDHH Director of Certification. The candidate filing the appeal shall include in the appeal a complete explanation of event(s) that occurred at the testing session which he/she feels was a deviation from specific examination procedures.

The Director of Certification shall include in his/her review (but is not limited to) the following information:

1. The candidate's written statement.
2. The candidate's performance test videotape.
3. Documentation submitted by any concerned party.
4. The certification policy and procedure manual.

The DSDHH Director of Certification shall determine the merit of the appeal and either grant or deny the appeal.

The appeal decision shall be sent by mail to the candidate within 45 days of receiving the request for appeal. No fee shall be charged for an appeal. If the appeal is granted, the candidate may be scheduled for the next examination. The candidate shall be required to sit only for the test component(s) he/she failed. The candidate shall not be assessed any additional fee for the examination.

The candidate may request a review of the director's decision. This review shall be conducted by the Certification Advisory Board Appeals Committee. The request must be submitted in writing to the Certification Advisory Board within 30 days of receiving the appeal decision. The chair of the Certification Advisory Board and two other members designated by the chair shall then review the director's decision and uphold or override the decision. The chair will notify, by certified mail, both the candidate and the Director of Certification within 45 days of receiving the review request.

Temporary Permit

There may occur situations wherein one of two criteria exist. A qualified, but uncertified, transliterator might relocate to Utah but will not have had the opportunity to take the Utah Cued Language State Level Assessment. He/she may like to begin providing services until the opportunity is presented to take the test. This interpreter/transliterator may have even received some level of certification under another agency not approved by the TECUnit, and thus not approved in Utah. This situation would satisfy one of the criteria for an emergency permit: the transliterator has the necessary skills but has not yet taken the Utah Cued Language State Level Assessment.

There may exist a situation wherein an individual who is currently certified under Utah's system is asked to provide services that would normally be considered outside of the scope of the transliterator's skill. For example, a deaf consumer may make a request in a legal setting for the services of a specific transliterator who holds Level III rather than Level IV certification. While these types of situations might also satisfy the criteria for issuing an emergency permit, all parties, hearing and deaf, need to understand that there are potential conflicts that might arise, including possibly inaccurate interpretation or transliteration and unethical or unprofessional behavior.

A transliterator, in conjunction with the requesting agency or business, may submit an Emergency Permit Request Form to the Director of Certification. The director shall, within five (5) working days, grant or deny the permit request and inform both of the parties of the decision. Should the request be denied, the director may, at his/her discretion, suggest alternative transliterators to fill the request.

VI. EXEMPTIONS FROM CERTIFICATION

POLICY

The Division of Services for the Deaf and Hard of Hearing (DSDHH) shall provide a method for individuals to engage in the practice of interpreting/transliterating without being certified, subject to stated circumstances and limitations.

PROCEDURES

General Exemptions

Under Senate Bill No. 41, Utah Code 53A-26a-305 (see Appendix A), an individual may engage in the practice of a certified interpreter [and transliterator] under the stated circumstances and limitations of that chapter. An individual may engage in the practice of interpreting/transliterating without notifying the DSDHH Director of Certification, according to stated circumstances and limitations, under Utah Code 53A-26a-305, (1)-(3).

To engage in the practice of an interpreter/transliterator without first certifying within either the national or state testing system, under Utah Code 53A-26a-305, (4)(a)(b), an individual must apply to and be approved by the DSDHH Director of Certification for a temporary permit prior to providing interpreter/transliterator services.

Temporary Permit

Under Utah Code 53A-26a-305, (4)(a)(b), the State Board of Education adopted rules for the issuance of temporary permits for the practice of interpreter/transliterator services in unique circumstances. There are provisions for three (3) types of temporary permit: mentored permit, emergency permit, and student permit. The temporary permit requires the submission of a request from a sponsoring agency which agrees to monitor the performance of the permit holder.

The temporary permit is intended as a short-term solution to extraordinary circumstances. It is granted by the Director of Certification to both the requesting agency and the interpreter/transliterator on a contractual basis. The permit remains in force for the amount of time agreed upon by the sponsoring agency, the interpreter/transliterator, and the Director of Certification as long as the conditions of the professional development plan are met. The maximum time a temporary permit shall remain valid is one (1) year. The requirements of the temporary permit are no longer enforced if the interpreter/transliterator passes the Utah Certification Test at any level.

Temporary Permit Holder (not a certification level): an individual who either because of relocation or limited experience and training has not yet achieved Utah Certification. As no level of skill has been ascertained, this person should only provide fundamental communication services in the specific situation for which the permit is granted.

Mentored Permit

A mentored permit may be granted when there is a lack of qualified interpreter/transliterators in any area or community of the state, or when there is a need for skill development by the interpreter/transliterator. A person possessing a mentored permit must be supervised by a DSDHH-approved mentor for a minimum of 12 hours per month. A person possessing a mentored permit must attend 15 hours of DSDHH-approved workshops every six (6) months.

Criteria for Obtaining a Mentored Permit

To provide interpreting/transliterating services with a mentored permit, the individual must submit the following: employer permit application. The employer must state what steps have been taken to hire a certified interpreter, pay the required fees, and submit the application for the temporary permit, which must include a professional development plan. A screening is required prior to approval for any mentored permit. Approval of the request will be given by the Permit Committee depending on candidate qualifications (based on screening) and the situation in which the mentoring is taking place. The Permit Committee will determine and specify the interpreting assignments allowed under each mentored permit.

Length of Mentored Permit

A mentored permit is renewable every three (3) months for a maximum period of one (1) year. Renewal is contingent upon approval of the mentor and the Permit Committee. The mentored permit may be revoked if any of the following parties violate the professional development plan: the mentored interpreter/transliterator, the mentor, or the sponsoring agency or business.

Emergency Permit

There may occur situations wherein a qualified, but uncertified, interpreter/transliterator might relocate to Utah but will not have had the opportunity to take the Utah Certification Test. This candidate wishes to begin providing services until the next testing opportunity is available. This interpreter/transliterator may have even received some level of certification in another state which is not recognized in Utah. This situation would satisfy the criteria for an emergency permit: the interpreter/transliterator has the necessary skills but has not yet taken the Utah Certification Test.

Criteria for Obtaining an Emergency Permit

To provide interpreting/transliterating services with an emergency permit, the individual must submit the following: employer permit application. The employer must state what steps have been taken to hire a certified interpreter, pay the required fees, submit the application for the temporary permit, which must include a professional development plan. Approval of the request will be given by the Director of Certification.

An interpreter/transliterator, in conjunction with the requesting agency or business, may submit an Emergency Permit Request Form to the Director of Certification. The director shall, within fifteen (15) working days, grant or deny the permit request and inform both of the parties of the

decision. Should the request be denied, the director may, at his/her discretion, suggest alternative interpreters/transliterators to fill the request.

Length of Emergency Permit

A emergency permit is valid for a maximum of four (4) months. The Emergency permit may be revoked by the Director of Certification if any of the following parties violate the professional development plan: the mentored interpreter/transliterators, the mentor, or the sponsoring agency or business.

Student Permit

A student permit may be granted where the individual is providing paid interpreting services while in a training program, internship, residency, apprenticeship, or on-the-job training program approved by the DSDHH. Student activities must be supervised by a qualified faculty, staff, or designee, and must be a defined part of the training program. Students are not to work alone and must work with certified interpreters.

Criteria for obtaining a student permit

To provide interpreting services the student must submit the required fees, professional development plan to DSDHH, Student Permit application, and training sponsor permit form.

Length of Permit

The Emergency Permit will be valid for four (4) months or as agreed upon by Director of Certification and the training agency.

VII. DISCIPLINARY PROCEEDINGS

POLICY

The State Board of Education shall revoke, suspend, or restrict the certificate of an interpreter/transliterater who does not maintain certification requirements or does not abide to the designated Code of Professional Conduct. Please refer to Appendix G for any amendments or additions to this section.

Definition of Terms

Complaint: A written or videotaped allegation against a certified sign language interpreter/transliterater by an adult party with a vested interest.

Complainant: The party by whom, or for whom, a complaint is being filed.

Interpreter: Any person who is certified by the Utah State Board of Education to render interpreter services.

Transliterater: Any person who is approved by the Utah State Board of Education to render transliterating services.

Certificate: The credentials issued to interpreters/transliteraters by the Utah State Board of Education to interpret/transliterate in Utah.

Certification Advisory Board: A group of individuals appointed by the Utah State Board of Education to provide the Board, Utah State Office of Rehabilitation, and Division of Services for the Deaf and Hard of Hearing advice concerning certification of interpreters/transliteraters.

Code of Professional Conduct Committee: A subcommittee of the Certification Advisory Board that oversees the complaint process for interpreters and transliteraters, typically consisting of five (5) to nine (9) members, including a minimum of three (3) Advisory Board members. The vice-chair of the Certification Advisory Board is automatically the chair of the Code of Professional Conduct Committee.

Hearing Committee: A subcommittee of the Code of Professional Conduct Committee that actually hears the complaint. Typically comprised of three members and a chair selected from the Code of Professional Conduct Committee.

Mediation: A process whereby the complainant and the interpreter/transliterater meet with a neutral third party to discuss the incident and attempt to come to a mutually satisfactory resolution of the grievance without proceeding to the stage of a formal hearing.

Hearing: Proceedings on a complaint for the finding of fact and formulation of a recommendation of action to the Certification Advisory Board and, when applicable, to the State Board of Education.

State Board of Education: Agency that has final authority to issue, deny, revoke, or restrict interpreter/transliterators certificates in Utah.

Jurisdiction

The jurisdiction of the DSDHH via the Code of Professional Conduct Committee shall extend to all state of Utah certified sign language interpreters and recognized EIPA transliterators. Jurisdiction over complaints regarding non-certified interpreters or transliterators shall be maintained by the Utah Attorney General's Office.

The DSDHH Code of Professional Conduct Committee shall concern themselves only with incidents involving such members while providing interpreting/transliterating services.

The DSDHH Code of Professional Conduct Committee shall act upon any case properly before it in which a complaint is filed and acted upon according to the written procedures.

PROCEDURES

Who May File a Complaint

A complaint may be filed by any person utilizing interpreter/transliterators services in the alleged incident, any person having a direct interest in the occurrence specified in the complaint, or the Director of Certification in behalf of such individuals. Individual is required to submit the form provided to them by the State and may either hand deliver or mail said to complaint to the address provided on the form.

Determination of Complaint

The Director of Certification shall maintain a log of all complaints received and all actions taken. The purpose of the log shall be to monitor the grievance process for effectiveness and appropriate resolution. The log shall be kept absolutely confidential. At no time shall unauthorized individuals or agencies have access to the log. The log shall contain only name(s) of complainant, name(s) of interpreter(s) or transliterator(s), date of complaint, action taken, and date of closure.

How to File a Complaint

A complaint must be submitted in writing or on videotape and filed with the DSDHH Director of Certification, 5709 South 1500 West, Taylorsville, UT 84123. The complaint must be filed within 120 days of the incident in which alleged unprofessional or unethical conduct occurred. The complaint must set forth the specific action or actions in question making reference to the exact portion of the Code of Professional Conduct alleged to have been violated. The complaint must set forth the name(s) of all persons against whom charges are being alleged.

The Director of Certification will forward complaints to the chair of the Code of Professional Conduct Committee to determine if the committee has jurisdiction over the complaint. If the

Code of Professional Conduct Committee determines that it lacks jurisdiction or that the complaint does not state a cause of action that the committee can address, the case shall be dropped or referred to the proper legal authority. The complainant shall be informed of the action, by certified mail, by the DSDHH Director of Certification. If the Code of Professional Conduct Committee determines it has jurisdiction and the complaint states a cause that the Committee can address, the chair shall notify the Director of Certification.

If a Complaint Proceeds

If the Code of Professional Conduct Committee determines that there is probable cause for action, the Director of Certification shall send by certified mail a copy of the complaint and a response form to the last known address of the interpreter/transliterater and at the same time send notification to the complainant that the complaint will proceed.

The interpreter/transliterater shall have 30 days from the date the notice is postmarked in which to respond. The response shall be in writing and shall include all information requested on the response form. The response shall address, either by admitting, denying, or further explaining, each relevant aspect of the allegation(s) set forth in the complaint. The response shall be mailed by certified mail to the DSDHH Director of Certification: 5709 South 1500 West, Taylorsville, UT 84123. After the complaint response has been filed or the 30-day period has elapsed for filing a response, the case will be sent to the Code of Professional Conduct Committee Chair to refer to mediation.

A complaint may be withdrawn at any time.

The Mediation Process

The mediation process must be completed within 60 days from the date that the respondent's response is received by the Director of Certification. Should extreme circumstances exist, an extension may be requested by either party to the Code of Professional Conduct Committee. The Director of Certification will be responsible for choosing a mediator from a neutral third party organization that is approved by the Certification Advisory Board. Should an interpreter/transliterater be required in order to facilitate communication access for either party, the Director of Certification will be responsible to procure one from a neutral third party organization.

The Mediation Meeting

The mediation meeting will include only the complainant(s), respondent(s), and mediator.

The meeting will open with the mediator explaining the rules for the mediation process to ensure that both parties understand the process. All participants shall sign an agreement called the Mediation Participation Agreement in order to proceed with mediation services. The mediation meeting shall then proceed until either a satisfactory resolution is achieved, or the three parties agree that mediation can not resolve the conflict and the matter must be sent to a formal Code of Professional Conduct Committee hearing.

Resolution Through Mediation

When both parties agree on a solution to the complaint, the mediator shall draft a Mediation Resolution Agreement for all to sign. If the solution includes some action to be taken by the respondent, a deadline for completing the action shall be specified. Copies of the signed agreement shall be given to both parties, and a copy will be mailed to the Director of Certification. The Director of Certification shall monitor whether the action(s) are completed on time. If so, the case shall be considered successfully mediated and closed, with the mediator being notified of the termination of mediation. If the actions(s) are not completed on time, the Director of Certification shall send a letter to both parties indicating that if evidence of completion of the action(s) is not received at the DSDHH within ten (10) working days, the original complaint and response will be automatically sent to the Code of Professional Conduct Committee for action.

In each Mediation Resolution Agreement, the parties shall specify that they agree to complete a follow-up survey. The survey will be sent by the Director of Certification. The purpose of the survey is to determine the parties' satisfaction with the mediation process and determine if there are suggestions that would improve the mediation process.

Unresolved Mediation

When the parties cannot agree on a solution to the complaint, the mediator shall notify the Director of Certification, who shall automatically refer the case to the Code of Professional Conduct Committee. The Code of Professional Conduct Committee will, within two weeks of receipt of the complaint, proceed to schedule a formal hearing date and inform all parties.

Mediation Records

Mediators may take notes during the mediation process to assist in facilitating the process. These notes shall be destroyed by the mediator after receiving notification from the Director of Certification that mediation has been terminated, whether the case is satisfactorily resolved or sent to a formal hearing.

Successful Mediation Records

When a case has been successfully mediated, all materials related to the case except the Mediation Participation Agreement and the Mediation Resolution Agreement shall be destroyed and the permanent, confidential log maintained by the Director of Certification shall specify: (1) the names of the complainant and respondent, (2) the date of the incident, and (3) the resolution of the complaint as successfully mediated.

Unsuccessful Mediation Records

When a case is unsuccessfully mediated, the original complaint and response will be forwarded by the Director of Certification to the Code of Professional Conduct Committee. The committee shall be informed that mediation was unsuccessful. Any other materials related to the mediation shall be returned to the Director of Certification and destroyed. The permanent, confidential log shall specify the same information as above except that the complaint resolution was unsuccessfully mediated and referred to the Code of Professional Conduct Committee. \

Records of Successful Mediation, Action Not Complete

When a case is successfully mediated but the respondent does not complete the agreed upon action(s), the original complaint and response will be forwarded by the Director of Certification to the Ethical Standards Committee. The committee shall be informed that the mediation was successful but the respondent did not complete agreed upon action(s). Mediation materials shall be returned to the Director of Certification and destroyed. The permanent, confidential log shall specify the same information as above except that the complaint resolution was successfully mediated, however respondent's action(s) were not completed and the complaint is referred to the Code of Professional Conduct Committee. The Code of Professional Conduct Committee will, within two weeks of receipt of complaint, proceed to schedule a formal hearing date and inform all parties.

Records of Withdrawn Case

When a case is withdrawn, all materials related to the case shall be destroyed and the permanent, confidential log shall specify the same information as above except to specify that the case was withdrawn.

The Mediation Participation Agreement and the Mediation Resolution Agreement shall be kept by the Director of Certification in the individual mediator's confidential file for the sole purpose of tracking the mediator's case resolution effectiveness. These documents shall not be forwarded to any committees in the grievance system.

Due Process Hearing

If a situation is not resolved through mediation, or at any time during the grievance process when requested by the respondent, a complaint may be referred to the Code of Professional Conduct Committee for a due process hearing. No complaint may be brought against a respondent who is already involved as a plaintiff or defendant in a legal proceeding involving the same incident identified in the complaint.

Selection of Code of Professional Conduct Committee Members

The Utah State Office of Rehabilitation, Division of Services for the Deaf and Hard of Hearing (DSDHH), and Certification Advisory Board shall appoint a Code of Professional Conduct Committee whose selected members shall conduct hearings addressing complaints involving Utah state certified interpreters or transliterators. The committee shall be composed of five (5) to nine (9) members. A minimum of three (3) members shall be present in order to conduct a hearing. The committee shall be chaired by appointment of the Utah Certification Advisory Board. All committee members shall be available to take action on a complaint in a timely manner. A quorum of the Code of Professional Conduct Committee shall consist of three (3) members. A quorum must be assembled when evidence is presented.

If for any reason, an Code of Professional Conduct Committee member should have to vacate his/her seat on the committee, notification in writing shall be given to the Advisory Board. The Advisory Board shall appoint a member to fill the seat. Appointments shall be for a period of two years. A member of the Code of Professional Conduct Committee shall have completed a DSDHH-approved ethical standards hearing training workshop prior to hearing a complaint.

Any matter before the committee shall be kept strictly confidential. Violation of confidentiality shall be grounds for dismissal from the committee. Any communications regarding the hearing or discussions shall go through the Director of Certification.

Disqualification to Serve on a Hearing Panel

A Code of Professional Conduct Committee member shall be disqualified from hearing a complaint if he/she:

1. Is the complainant or respondent.
2. Is deemed unable to participate objectively and is disqualified by a majority vote of the Code of Professional Conduct Committee or Hearing Committee.
3. Disqualifies himself or herself because of prior knowledge of the case or because of a relationship to the complainant or respondent.
4. Is disqualified because of participation in the investigation of the case.
5. Is unable, for any demonstrable reason, to hear and judge the case fairly.
6. Reports, for any reason, a conflict of interest in the case.

Hearing Procedure

Action on the Complaint

A consultation meeting of the Code of Professional Conduct Committee will be arranged to review the documents of the case and make an initial decision on the merits of the pleading. The committee chairperson will select three other committee members to be involved in the hearing. If the Code of Professional Conduct Committee determines that there is probable cause for action, then a hearing shall be scheduled. The date for the hearing shall not be less than 20 days but not more than 60 days from the date the response is received by the Director of Certification or from the end of the 30 days allowed the interpreter/transliterater to respond (whichever date is first). The date, time, and place of the hearing shall be scheduled so as to be convenient for hearing panel members, the complainant, and the respondent.

The Director of Certification, at the request of the Code of Professional Conduct Committee, shall authorize a member of the Code of Professional Conduct Committee to conduct a full investigation of the case when the Director of Certification is the complainant in the case. Should a member of the Code of Professional Conduct Committee be involved in any phase of the investigation, that member shall be ineligible to sit for the hearing.

At least 15 days prior the hearing date, the Director of Certification shall send the following information to the interpreter/transliterater and the complainant by certified mail:

- Date, time, and place of hearing.
- Names and professional affiliations of the members of the committee who will hear the complaint, including identification of the individual who will chair the hearing.
- Procedures for objecting to any member hearing the complaint.
- Names and affiliations of the complainant and interpreter/transliterater.

At least 15 days prior to the hearing date, the Director of Certification shall send the following information to hearing panel members of the Code of Professional Conduct Committee hearing the complaint:

- Date, time, and place of the hearing.
- Names of the committee members hearing the complaint.
- Names and affiliations of the complainant and interpreter/transliterater.

Hearing Procedure

A formal complaint will be reviewed by the committee if mediation has been attempted and deemed unsuccessful; if mediation was successful, but the agreed upon action was not completed; or if the complaint includes a matter of extreme urgency requiring an immediate review by the Code of Professional Conduct Committee. A respondent may also, at any time, request that the matter be forwarded to a due process hearing.

Complaints forwarded to the Code of Professional Conduct Committee after mediation, will have all responses in the case file. For complaints that bypass mediation, respondents may file a response to the allegations against him/her within 30 days of receiving the complaint

The complainant and respondent may each invite a representative such as an advocate, legal assistant, legal counsel, etc., to assist him/her during the proceedings. Representatives may participate in all proceedings. Either party may present any affidavits, documents, or other written evidence as to any relevant aspect of an allegation or defense asserted. Either party may present witnesses to give testimony as to any relevant aspect of the allegation or defense asserted. While the meeting proceeds as a formal hearing, this is not a court of law and all may participate. The meeting will go forward as outlined below:

1. The complainant will first present the complaint.
2. The respondent will reply.
3. The complainant may present evidence and witness testimony.
4. The respondent or their legal council may query.
5. The respondent may present evidence and witness testimony.
6. The complainant may query.

Committee members may interject at any point during the review to ask questions of parties or witnesses necessary to a complete understanding or clarification of the points at issue.

No allegations may be brought against a respondent who is already involved as a plaintiff or defendant in a legal proceeding involving the same incident identified in the complaint. If such action is brought after a formal complaint has been filed with the Code of Professional Conduct Committee, the complaint shall be dismissed without prejudice, allowing the complaint to be filed again within one year after the final disposition of the legal charges.

Committee procedures may be stopped at any time if the complainant so informs the committee in writing of his/her intent to withdraw the complaint.

Committee procedures and/or conference calls should require speakers to identify themselves before speaking.

Considering the Evidence

A minimum of three committee members must be present when the review takes place and only those members present may take part in the decision of the case. Three members of the Code of Professional Conduct Committee shall hear a case and shall be known as the Hearing Committee. A respondent may request that more committee members hear a complaint. The Code of Professional Conduct Committee Chairperson shall determine which members of the committee

will be assigned to hear each case. At least two of those three members shall be certified interpreters/transliterators. Those members assigned to a given case shall appoint from among themselves a panel leader for the review. An even number of members should never hear a complaint.

The committee shall only consider evidence properly presented before it and deemed to be reliable and relevant to the proceedings. Reliability and relevance shall be weighed by each committee member with the panel leader for the review being the final arbiter in cases of serious discrepancies. The panel leader shall make the determination regarding the evidence on an individual case basis.

Care should be taken to ensure strict confidentiality regarding the proceedings until the full appeal process has been exhausted or the appeal deadlines have passed. Caution and confidentiality may prevent future accusations of defamation or slander.

Complaints shall be dealt with in numerical order as received by the DSDHH. Multiple alleged violations against the same interpreter/transliterators will be handled simultaneously.

Creating a Review Record

An official record (either an audio or video tape, real time captioning disk, or hard copy) shall be made of all proceedings and will include all oral and interpreted testimony. The review record shall consist of two (2) parts.

Part one (I) will consist of the audio or video tape, captioning disk, and hard copy of the review, including all oral and interpreted or transliterated testimony, questions asked by committee members and answers thereto.

Part two (II) will consist of all the evidence presented, including but not limited to affidavits, documents, videotapes, and written materials.

Should audio tapes be used to record the review, the person recording the review shall make sure the tapes are clear and each speaker is identified. The review facilitator could call on speaker by name with committee members identifying themselves when asking questions if this would assist the assigned recorder.

Reaching a Decision

The committee's findings shall require a vote of the majority of the committee members sitting in judgement. The committee's decision on the complaint shall be written and shall identify in detail the complaint, the evidence used in a decision, and the relevant Code of Professional Conduct citation.

Note: A dissenting member of the Code of Professional Conduct Committee may file a minority report which shall become part of the committee's decision and record.

One copy shall be kept with the committee records, one copy shall be supplied to the complainant and one to the respondent. If copies are mailed, they are to be sent via registered mail, return receipt.

If the committee decides against the respondent, they shall immediately determine in accordance with the committee guidelines what form of discipline shall be administered. A vote by the majority of the committee members reviewing the allegation shall be required in this decision. Consideration of disciplinary action shall take place in executive session. The committee members reviewing the complaint shall weigh the evidence and decide the appropriate disciplinary measure.

Every respondent is entitled to as speedy and fair a decision as possible under the circumstances. The Ethical Standards Committee, barring extenuating circumstances, must inform the respondent of the decision within 30 days of the investigative review.

No respondent whose allegation has been dismissed may have a complaint filed again with any offense in connection with the same incident.

Disciplinary Action

Based on the hearing of evidence and witnesses and a review of the official record, the Hearing

Committee will recommend to the Code of Professional Conduct Committee any further disciplinary action. The Code of Professional Conduct Committee will then be responsible to determine the exact measure of the discipline by majority vote of the committee members present at a meeting called for said purpose. Proceeding with the meeting will require the presence of a quorum of members. Should the Code of Professional Conduct Committee desire further input before making a determination, they may call upon members of the Hearing Committee for comments. It is the function of the Hearing Committee to hear the complaint and those members involved are fully cognizant of the details of previous proceedings. It should not be necessary for the Code of Professional Conduct Committee to review the official record.

The determination of the type and severity of disciplinary action will depend on the severity of the complaint in terms of lack of professionalism, non-adherence to the Code of Professional Conduct, and the impact of the interpreter/transliterators' actions on the well-being of the complainant.

Potential Courses of Action

There is a range of potential courses of action, and the Code of Professional Conduct Committee may elect to choose one, several, or none of the possible options listed below. The committee may also choose to create a course of action tailored specifically to the circumstances of the particular complaint. At times, the implementation of a chosen course of action may require the participation of the complainant as well.

- The Code of Professional Conduct Committee may elect to take no disciplinary action on the complaint.
- The respondent may be required to attend one or more educational workshop, seminar, or class that would ensure exposure to the kind of information that would aid the respondent to react differently in future circumstances than he or she did during the incident for which the complaint was filed. Sample topics might include the Code of Professional Conduct, use of an interpreter, the interpreter's role, or interpersonal communication. Workshop attendance could be included in the current CEH (Continuing Education Hour) requirement for certification maintenance, or could be levied as an additional requirement.
- The respondent may be placed on probation of the Committee's directive, where his or her actions would be monitored for a specified length of time to ensure that professional and ethical conduct is maintained. The Director of Certification would be responsible for overseeing the monitoring process and may designate a representative for direct observation.
- The respondent might be placed with a mentor who would act as a role model and teacher of the interpreter or transliterator. The committee could place a requirement for number of hours for the individual to work with the mentor, or establish a set length of time.
- The respondent could be placed on temporary suspension. The interpreter/transliterators would not be permitted to provide compensated communicative services for the required period of time. Suspension must not exceed one year in duration. Maintenance of certification by payment of dues and fees and earning of CEHs must continue during this period. At the end of the specified period, the Director of Certification will report to the Code of Professional Conduct Committee as to the current standing of the action. The

Code of Professional Conduct Committee shall determine whether or not any and all conditions of the disciplinary action have been met. If the conditions are found to have been met, certification is reinstated.

- The committee may, as an action of last resort, recommend to the State Board of Education revocation of the certification of the interpreter/transliterater. This will necessitate the individual waiting for a specified length of time as determined by the Code of Professional Conduct Committee, then entering the certification process from the beginning by applying to take the written test and proceeding with full performance testing. The committee will need to specify a point after which the individual is permitted to take the certification test. A revoked certification may not be reinstated. All certification maintenance requirements are also immediately revoked, however the interpreter or transliterater will not be entitled to any refund or prorated return of fees or dues for the year in which the complaint is heard, and all CEHs earned up to the point of the announcement of action will be moot.

Note: An interpreter or transliterater whose certification has been suspended shall not under any circumstances be granted an emergency temporary permit. A mentored permit may be granted if the respondent agrees to the mentor being informed of the complaint and subsequent proceedings to the extent that the mentor can then agree to provide targeted mentoring and sufficient supervision. An interpreter or transliterater whose certification has been revoked shall not be granted any form of temporary permit.

Revocation of an interpreter/transliterater's certification is an extreme measure and should be reserved only for situations consisting of the most intentional and severe malpractice.

Official Committee Records

Official Code of Professional Conduct Committee records shall consist of the complaint; the response; all relevant correspondence between the committee and the parties; all evidence written, oral, or signed; a transcript of the proceedings; the written decision; any testimony or opinion; and transcripts. Official Code of Professional Conduct Committees records become the confidential property of the DSDHH. The entire official committee record, both Parts I and II, shall be sent to the DSDHH office as soon as a decision is issued, and all other materials will be destroyed. Records are to be made available to the respondent, the complainant, the chairperson, and the committee members during the period that the matter is under consideration by the committee.

Following the decision, records shall be sealed and may be reviewed only upon written request to DSDHH, stating good cause for release and review. The sealed records shall be kept for whichever is longer: (a) for three years from the date of the committee decision, (b) for the term of the disciplinary measure, or (c) for three years after all appeals have been exhausted. All records will then be destroyed by the Director of Certification.

A permanent, confidential log shall be maintained by the Director of Certification, listing the names of all parties involved, the date of the incident, action taken, and summary of the complaint.

APPENDICES

- A. Utah Codes 53A-26a, 63-38, 78-24a
- B. State Board of Education Rule R280-203
- C. Definitions
- D. Interpreter Code of Professional Conduct
- E. Guidelines for Determination of Jurisdiction
- F. Amendments and Additions

Appendix A

Utah Codes

Title 53A Chapter 26a -- Interpreter Services for the Hearing Impaired Act

- 53A-26a-101. Title.**
- 53A-26a-102. Definitions.**
- 53A-26a-201. Board.**
- 53A-26a-202. Powers and duties of the board.**
- 53A-26a-301. Certification required -- Classes of certification.**
- 53A-26a-302. Qualifications for certification.**
- 53A-26a-303. Certification term -- Expiration -- Renewal.**
- 53A-26a-304. Continuing education.**
- 53A-26a-305. Exemptions from certification -- Temporary or restricted certification.**
- 53A-26a-401. Grounds for denial of certification -- Disciplinary proceedings.**
- 53A-26a-501. Unlawful conduct.**
- 53A-26a-502. Unprofessional conduct.**
- 53A-26a-503. Penalty for unlawful conduct.**

Title 63 Chapter 38 -- Budgetary Procedures Act

- 63-38-3.2. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval.**

Title 78 Chapter 24a -- Interpreters for Hearing-Impaired

- 78-24a-1. Definitions.**
- 78-24a-2. Proceedings at which interpreter is to be provided for hearing impaired.**
- 78-24a-3. Effectiveness of interpreter determined.**
- 78-24a-4. Appointment of more qualified interpreter.**
- 78-24a-5. Readiness of interpreter prerequisite to commencement of proceeding.**
- 78-24a-6. List of qualified interpreters -- Use -- Appointment of another.**
- 78-24a-7. Oath of interpreter.**
- 78-24a-8. Compensation of interpreter.**
- 78-24a-9. Waiver of right to interpreter.**
- 78-24a-10. Privileged communications.**
- 78-24a-11. Video recording of testimony of hearing-impaired person.**

Title 53A Chapter 26a -- Interpreter Services for the Hearing Impaired Act

53A-26a-101. Title.

This chapter is known as the "Interpreter Services for the Hearing Impaired Act."

53A-26a-102. Definitions.

As used in this chapter:

- (1) "Advisory board" or "board" means the Interpreters Certification Board created in Section 53A-26a-201.
- (2) "Certified interpreter" means a person who is certified as meeting the certification requirements of this chapter.
- (3) "Hearing impaired" means a hearing loss which:
 - (a) necessitates the visual acquisition of language; or
 - (b) adversely affects the acquisition of language but which does not preclude the auditory acquisition of language.
- (4) "Interpreter services" means those services provided for payment by an individual holding one's self out to be a certified interpreter to facilitate effective communication between hearing and hearing impaired persons.

53A-26a-201. Board.

- (1) There is created to assist the State Board of Education the Interpreters Certification Board consisting of the following 11 members:
 - (a) a designee of the director of the Division of Services to the Deaf and Hard of Hearing (DSDHH) in the Utah State Office of Rehabilitation;
 - (b) a designee of the State Board of Regents;
 - (c) a designee of the State Board of Education;
 - (d) four professional interpreters, recommended by the director of DSDHH;
 - and
 - (e) four persons who are hearing impaired, recommended by the director of DSDHH.
- (2)
 - (a) The State Board of Education shall make all appointments to the board.
 - (b) In making its appointments under Subsections (1)(d) and (e), the State Board of Education shall give consideration to recommendations by interpreters for the hearing impaired and members of the hearing impaired community.
- (3)
 - (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.
 - (b) A person may not serve more than two three-year consecutive terms.
 - (c) If a vacancy occurs on the board for any other reason than the expiration of a term, the State Board of Education shall appoint a replacement for the remainder of the term pursuant to Subsections (1) and (2).
- (4) The State Board of Education may remove any board member for cause, which shall include misconduct, incompetence, or neglect of duty.
- (5) The board shall elect annually a chair and vice chair from among its members.
- (6) The board shall meet as often as necessary to accomplish the purposes of this chapter, but not less than quarterly.
- (7) Board members shall receive compensation for actual and necessary expenses in connection with their service on the board, but shall not receive a per diem.

53A-26a-202. Powers and duties of the board.

(1) The board shall function as an advisory board to the State Board of Education and under the direction of the State Board of Education shall perform the following duties concerning the certification of interpreters:

- (a) recommend to the state board appropriate rules;
- (b) recommend to the state board policy and budgetary matters;
- (c) recommend to the state board a passing score for applicant examinations;
- (d) screen applicants for certification and recommend certification, renewal, reinstatement, and re-certification actions to the state board in writing;
- (e) recommend standards of supervision for persons in training to become certified interpreters; and
- (f) act as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the State Board of Education.

(2) The State Board of Education, with the collaboration and assistance of the advisory board, shall:

- (a) prescribe certification qualifications;
- (b) prescribe rules governing applications for certification;
- (c) provide for a fair and impartial method of examination of applicants;
- (d) define unprofessional conduct, by rule, to supplement the definition under this chapter; and
- (e) establish conditions for reinstatement and renewal of certification.

(3) (a) The advisory board shall designate one of its members on a permanent or rotating basis to:

- (i) assist the state board in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and
- (ii) advise the state board in its investigation of these complaints.

(b) An advisory board member who has, under Subsection (3)(a), reviewed a complaint or advised in its investigation is disqualified from participating with the advisory board when it serves as a presiding officer of an administrative proceeding concerning the complaint.

53A-26a-301. Certification required -- Classes of certification.

(1) Certification is required to provide interpretive services, except as specifically provided in Section 53A-26a-305.

(2) The State Board of Education shall issue a certification to any person who qualifies under this chapter in classifications determined by the board based upon recommendations from the advisory board.

53A-26a-302. Qualifications for certification.

Each applicant for certification under this chapter shall:

- (1) submit an application in a form prescribed by the State Board of Education;
- (2) pay a fee determined by the State Board of Education under Section 63-38-3.2 to help offset the costs of implementing this chapter for the administration of examinations for certification and for the issuance of certificates;
- (3) be of good moral character; and
- (4) comply with any other qualifications for certification established by the State Board of Education pursuant to Subsection 53A-26a-202(2).

53A-26a-303. Certification term -- Expiration -- Renewal.

- (1) (a) The State Board of Education shall issue each certificate under this chapter in accordance with a three-year renewal cycle established by rule.
- (b) The State Board of Education may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the certified interpreter must show satisfactory evidence of compliance with renewal conditions established by the State Board of Education pursuant to Subsection 53A-26a-202(2).
- (3) Each certificate automatically expires on the expiration date shown on the certificate unless the certified interpreter renews it in accordance with the conditions prescribed by the State Board of Education for renewal.

53A-26a-304. Continuing education.

- (1) (a) As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education in accordance with standards defined by rule.
- (b) The State Board of Education shall determine the number of hours based upon recommendations from the advisory board.
- (2) If the renewal cycle is extended or shortened under Section 53A-26a-303, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

53A-26a-305. Exemptions from certification -- Temporary or restricted certification.

- (1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:
 - (a) an individual serving in the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the person holds a valid certificate or license to provide interpreter services issued by any other state or jurisdiction recognized by the State Board of Education;
 - (b) a student engaged in providing interpreter services while in training in a recognized school approved by the State Board of Education to the extent the student's activities are supervised by qualified faculty, staff, or designee, and the services are a defined part of the training program;
 - (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the State Board of Education while under the supervision of qualified persons;
 - (d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;
 - (e) an individual who is invited by a recognized school, association, or other body approved by the State Board of Education to conduct a lecture, clinic, or demonstration on interpreter services if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state; and

- (f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group, including all individuals who travel with the team or group, except as a spectator.
- (2) (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to practice.
 - (b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.
- (3) (a) Upon the declaration of a national, state, or local emergency, the State Board of Education, in collaboration with the advisory board, may suspend the requirements for permanent or temporary certification of persons who are certified or licensed in another state.
 - (b) Individuals exempt under Subsection (a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.
- (4) The State Board of Education, after consulting with the advisory board, may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:
 - (a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or
 - (b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before a decision is made by the board either to grant or deny the applicant a regular certification.

53A-26a-401. Grounds for denial of certification -- Disciplinary proceedings.

- (1) The State Board of Education shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter who does not meet the qualifications for certification under this chapter.
- (2) The State Board of Education may refuse to issue a certificate to an applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a cease and desist order in any of the following cases:
 - (a) the applicant or certified interpreter has engaged in unprofessional conduct as defined in this chapter or by rule under this chapter;
 - (b) the applicant or certified interpreter has engaged in unlawful conduct as defined in this chapter;
 - (c) the applicant or certified interpreter has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or
 - (d) the applicant or certified interpreter is unable to provide interpretive services with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a threat or potential threat to the public health, safety, or welfare.
- (3) An individual whose certificate has been suspended, revoked, or restricted under Subsection(1) may apply for reinstatement at reasonable intervals and upon compliance

with conditions imposed by the State Board of Education.

- (4) The State Board of Education may issue cease and desist orders:
 - (a) to a certified interpreter or applicant who may be disciplined under Subsection (1);
 - (b) to any person who engages or represents himself to be engaged in the profession of a certified interpreter; and
 - (c) to any person who otherwise violates this chapter or any rules adopted under this chapter.

53A-26a-501. Unlawful conduct.

"Unlawful conduct" means conduct by any person:

- (1) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the profession of a certified interpreter if the person is:
 - (a) not certified to do so or exempted from certification under this chapter; or
 - (b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;
- (2) impersonating another certified interpreter or practicing as a certified interpreter under a false or assumed name, except as permitted by law;
- (3) knowingly employing any other person to practice or engage in or attempt to practice or engage in the profession of a certified interpreter, if the employee is not certified to do so under this chapter;
- (4) knowingly permitting the person's authority to engage in the profession of a certified interpreter to be used by another, except as permitted by law; or
- (5) applying for or obtaining certification or otherwise dealing with the State Board of Education through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.

53A-26a-502. Unprofessional conduct.

"Unprofessional conduct" means conduct by a certified interpreter that is defined as unprofessional conduct under this chapter or under any rules adopted under this chapter and includes:

- (1) violating, or aiding or abetting any other person to violate any provision of this chapter or rule or order regulating certified interpreters;
- (2) violating or aiding or abetting any other person to violate any generally accepted professional or ethical standard applicable to the profession of a certified interpreter; or
- (3) physically, mentally, or sexually abusing or exploiting any person through conduct connected with a certified interpreter's practice under this chapter.

53A-26a-503. Penalty for unlawful conduct.

Any person who violates Section 53A-26a-501 is guilty of a class B misdemeanor.

Title 63 Chapter 38 -- Budgetary Procedures Act

63-38-3.2. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval.

- (1) As used in this section:
 - (a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

- (ii) "Agency" does not mean the Legislature or its committees.
 - (b) "Fee agency" means any agency that is authorized to establish regulatory fees.
 - (c) "Fee schedule" means the complete list of regulatory fees charged by a fee agency and the amount of those fees.
 - (d) "Regulatory fees" means fees established for licensure, registration, or certification.
- (2) Each fee agency shall:
 - (a) adopt a schedule of fees assessed for services provided by the fee agency that are:
 - (i) reasonable, fair, and reflect the cost of services provided; and
 - (ii) established according to a cost formula determined by the director of the Office of Planning and Budget and the director of the Division of Finance in conjunction with the agency seeking to establish the regulatory fee;
 - (b) conduct a public hearing on any proposed regulatory fee and increase or decrease the proposed regulatory fee based upon the results of the public hearing;
 - (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as part of the agency's annual appropriations request;
 - (d) where necessary, modify the fee schedule to implement the Legislature's actions; and
 - (e) deposit all regulatory fees collected under the fee schedule into the General Fund.
- (3) A fee agency may not:
 - (a) set regulatory fees by rule; or
 - (b) charge or collect any regulatory fee without approval by the Legislature unless the fee agency has complied with the procedures and requirements of Subsection (5).
- (4) The Legislature may approve, increase or decrease and approve, or reject any regulatory fee submitted to it by a fee agency.
- (5) (a) After the public hearing required by this section, a fee agency may establish and assess regulatory fees without legislative approval if:
 - (i) the Legislature creates a new program that is to be funded by regulatory fees to be set by the Legislature; and
 - (ii) the new program's effective date is before the Legislature's next annual general session; or
 - (iii) the Division of Occupational and Professional licensing makes a special assessment against qualified beneficiaries under the Residence Lien Restriction and Lien Recovery Fund Act as provided in Subsection 38-11-206(1).
 - (b) Each fee agency shall submit its fee schedule or special assessment amount to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner.
 - (c) Unless the fee schedule is approved by the Legislature, the fee agency may not collect a regulatory fee set according to this subsection after the adjournment of the annual general session following the session that established the new program.
- (6) (a) Each fee agency that wishes to increase any regulatory fee by 5% or more shall obtain legislative approval for the fee increase as provided in this subsection before assessing the new regulatory fee.

- (b) Each fee agency that wishes to increase any regulatory fee by 5% or more shall submit to the governor as part of the agency's annual appropriation request a list that identifies:
 - (i) the title or purpose of the regulatory fee;
 - (ii) the present amount of the regulatory fee;
 - (iii) the proposed new amount of the regulatory fee;
 - (iv) the percent that the regulatory fee will have increased if the Legislature approves the higher fee; and
 - (v) the reason for the increase in the regulatory fee.
- (c)
 - (i) The governor may review and approve, modify and approve, or reject the regulatory fee increases.
 - (ii) The governor shall transmit the list required by Subsection (6)(b), with any modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.
- (d) Bills approving any regulatory fee increases of 5% or more shall be filed before the beginning of the Legislature's annual general session, if possible.

Title 78 Chapter 24a -- Interpreters for Hearing-Impaired

78-24a-1 Definitions.

As used in this chapter:

- (1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, authority, department, agency, legislative body, or of any proceeding of any nature where a qualified interpreter is required under this act.
- (2) "Hearing-impaired person" and "hearing-impaired parent" means a deaf or hard of hearing person who, because of sensory or environmental conditions, requires the assistance of a qualified interpreter or other special assistance for communicative purposes.
- (3) "Necessary steps" or "necessary services" include provisions of qualified interpreters, lip reading, pen and paper, typewriters, closed-circuit television with closed-caption translations, computers with print-out capability, and telecommunications devices for the deaf or similar devices.
- (4) "Qualified interpreter" means a sign language or oral interpreter as provided in Sections 78-24a-3 and 78-24a-6 of this act.

78-24a-2. Proceedings at which interpreter is to be provided for hearing impaired.

- (1) If a hearing-impaired person is a party or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions (including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing-impaired person may be subjected to confinement or criminal sanction) the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the hearing-impaired person and to interpret the hearing-impaired person's testimony. If the hearing-impaired person does not understand sign language, the appointing authority shall take necessary steps to ensure that the hearing-impaired person may effectively and accurately communicate in the proceeding.
- (2) If a juvenile whose parent or parents are hearing-impaired is brought before a court for any reason whatsoever, the court shall appoint and pay for a qualified interpreter to interpret the proceedings to the hearing-impaired parent and to interpret the hearing-impaired parent's testimony. If the hearing-impaired parent or parents do not understand sign language, the appointing authority shall take any reasonable,

necessary steps to ensure that the hearing-impaired person may effectively and accurately communicate in the proceeding.

(3) In any hearing, proceeding, or other program or activity of any department, board, licensing authority, commission, or administrative agency of the state or of its political subdivisions, the appointing authority shall appoint and pay for a qualified interpreter for the hearing-impaired participants if the interpreter is not otherwise compensated for those services. If the hearing-impaired participants do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that hearing-impaired persons may effectively and accurately communicate in the proceeding.

(4) If a hearing-impaired person is a witness before any legislative committee or subcommittee, or legislative research or interim committee or subcommittee or commission authorized by the state Legislature or by the legislative body of any political subdivision of the state, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the hearing-impaired person and to interpret the hearing-impaired person's testimony. If the hearing-impaired witness does not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that hearing-impaired witness may effectively and accurately communicate in the proceeding.

(5) If it is the policy and practice of a court of this state or of its political subdivisions to appoint counsel for indigent people, the appointing authority shall appoint and pay for a qualified interpreter or other necessary services for hearing-impaired, indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.

(6) If a hearing-impaired person is involved in administrative, legislative, or judicial proceedings, the appointing authority shall recognize that family relationship between the particular hearing-impaired person and an interpreter may constitute a possible conflict of interest and select a qualified interpreter who will be impartial in the proceedings.

78-24a-3. Effectiveness of interpreter determined.

Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level established by the Utah division of rehabilitation services and on the basis of the hearing-impaired person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved. If the interpreter is not able to provide effective communication with the hearing-impaired person, the appointing authority shall appoint another qualified interpreter.

78-24a-4. Appointment of more qualified interpreter.

If a qualified interpreter is unable to render a satisfactory interpretation, the appointing authority shall appoint a more qualified interpreter.

78-24a-5. Readiness of interpreter prerequisite to commencement of proceeding.

If an interpreter is required to be appointed under this act, the appointing authority may not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure effective communication with the hearing-impaired participants.

78-24a-6. List of qualified interpreters -- Use -- Appointment of another.

(1) The Utah division of rehabilitation services shall establish, maintain, update, and distribute a list of qualified interpreters.

(2) When an interpreter is required under this act, the appointing authority shall use one of the interpreters on the list provided by the Utah division of rehabilitation services. If none of the listed interpreters are available or are able to provide effective interpreting with the particular hearing-impaired person, then the appointing authority shall appoint another qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular hearing-impaired person involved.

78-24a-7. Oath of interpreter.

Before he or she begins to interpret, every interpreter appointed under this act shall take an oath that he or she will make a true interpretation in an understandable manner to the best of his or her skills and judgment.

78-24a-8. Compensation of interpreter.

An interpreter appointed under this act is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses. The fee shall be based on a fee schedule for interpreters recommended by the division of rehabilitation services or on prevailing market rates. Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally. Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

78-24a-9. Waiver of right to interpreter.

The right of a hearing-impaired person to an interpreter may not be waived, except by a hearing-impaired person who requests a waiver in writing. The waiver is subject to the approval of counsel to the hearing-impaired person, if existent, and is subject to the approval of the appointing authority. In no event may the failure of the hearing-impaired person to request an interpreter be considered a waiver of that right.

78-24a-10. Privileged communications.

If a hearing-impaired person communicates through an interpreter to any person under such circumstances that the communication would be privileged and the person could not be compelled to testify as to the communications, this privilege shall apply to the interpreter as well.

78-24a-11. Video recording of testimony of hearing-impaired person.

The appointing authority, on his or her own motion or on the motion of a party to the proceedings, may order that the testimony of the hearing-impaired person and its interpretation be electronically recorded by a video recording device for use in verification of the official transcript of the proceedings.

Appendix B

State Board of Education Rule R280-203.

Certification Requirements for Interpreters for the Hearing Impaired

As in effect on October 1, 2000

R280-203-1. Definitions.

R280-203-2. Authority and Purpose.

R280-203-3. Certification Qualifications.

R280-203-4. Examination of Applicants for Certification.

R280-203-5. Unprofessional Conduct.

R280-203-6. Renewal and Reinstatement.

KEY

Date of Enactment or Last Substantive Amendment

Notice of Continuation

Authorizing, Implemented, or Interpreted Law

R280-203-1. Definitions.

A. "Advisory board" means the Interpreters Certification Board created to assist the Board created by and with the responsibilities of 53A-26a-201 and 202.

B. "Certification of deaf interpreters" means the written approval of the Board required of individuals seeking payment for facilitating effective communication between hearing and hearing impaired persons.

C. "Signed English, cued speech, American Sign Language (ASL), and oral interpreting" are types of alternative communications for the purposes of this Rule.

D. "Board" means the Utah State Board for Applied Technology Education.

E. "USOR" means the Utah State Office of Rehabilitation.

R280-203-2. Authority and Purpose.

A. This rule is authorized by 53A-24-103 which places the USOR under the policy direction of the Board. The Board is authorized under 53A-1-401(3) to adopt rules and policies in accordance with its responsibilities.

- B. The purpose of this rule is to satisfy the directives of 53A-26a-202(2) including:
 - (1) certification qualifications provided in the DIVISION OF SERVICES TO THE DEAF AND HARD OF HEARING RULES GOVERNING CERTIFICATION OF INTERPRETERS AND TRANSLITERATORS
 - (2) procedures governing applications for certification;
 - (3) provisions for a fair and impartial method of examination of applicants;
 - (4) procedures for determining unprofessional conduct; and
 - (5) conditions and procedures for reinstatement and renewal of certification.

R280-203-3. Certification Qualifications.

- A. Candidates for certification shall be at least 18 years old.
- B. Candidates shall pass written and performance evaluations provided by the Division of Services to the Deaf.
- C. Candidates shall meet the criteria of 53A-26a-302.

R280-203-4. Examination of Applicants for Certification.

- A. Individuals applying for interpreter certification shall be tested and rated by the Division of Services for the Deaf and Hard of Hearing Interpreters Certification Panel according to procedures established in the RULES GOVERNING CERTIFICATION OF INTERPRETERS AND TRANSLITERATORS.
- B. An individual holding certification other than certification issued by the State of Utah may legally interpret in Utah, as set forth in the RULES GOVERNING CERTIFICATION OF INTERPRETERS AND TRANSLITERATORS.

R280-203-5. Unprofessional Conduct.

- A. The definition of "unprofessional conduct" provided in 53A-26a-502 shall be supplemented with the definition applied to educators in R277-514-3 and provided in the RULES GOVERNING CERTIFICATION OF INTERPRETERS AND TRANSLITERATORS.
- B. A complaint alleging unprofessional conduct by a certified interpreter may be filed under the procedure of R277-514. The procedure is provided in the RULES GOVERNING CERTIFICATION OF INTERPRETERS AND TRANSLITERATORS.
- C. The complaint shall be reviewed by the Commission as provided for in R277-514-4.
- D. A member of the advisory board shall assist the Board in reviewing the recommendation of the Commission, as provided in 53A-26a-202(3).

R280-203-6. Renewal and Reinstatement.

- A. An individual holding an interpreter's certificate is eligible to have that certificate renewed as provided in the RULES GOVERNING CERTIFICATION OF INTERPRETERS AND TRANSLITERATORS.
- B. An individual whose interpreter's certificate has been suspended or revoked for unlawful or unprofessional conduct may apply for reinstatement to the Board. The Board may require the applicant for reinstatement to complete the procedure for certification or may, upon consultation with the advisory board, designate the areas of the application process in which the applicant shall be reviewed.

KEY

certification, interpreters*

Date of Enactment or Last Substantive Amendment

June 5, 1997

Notice of Continuation

December 15, 1999

Authorizing, Implemented, or Interpreted Law

53A-24-103; 53A-1-401(3); 53A-26a-201 and 202

Appendix C

Definitions

Consultative register

Informal register

Frozen register

Formal register

Intimate register

Consecutive interpreting

Simultaneous interpreting

Definitions

Consultative register: Occurs when one of the individuals involved in the situation has expert status or enhanced command of the topic at hand, yet there is a desire to interact with the listener to confirm he or she has communicated. Turn taking occurs when the "expert" asks for questions or there is a lull in the explanation. Examples are between teacher and student, doctor and patient, attorney and client.

Informal register: Occurs when participants have equal status. Turn taking is fluid and interrupting is acceptable to a certain extent. It is common to find a more rapid rate of speech/sign and fragments or run on sentences. Slang and improper grammatical forms are frequently used. Examples are interactions between neighbors, coworkers, students, peers, or colleagues.

Frozen register: Occurs when a text is the same every time it is spoken or signed. The words/signs may have been handed down through time. It is unique because the meaning of what is being signed/said is more in the ritual than in the words/signs themselves. Examples are the Pledge of Allegiance to the Flag, the Lord's Prayer, or the national anthem.

Formal register: Occurs in a situation in which there is one speaker at a time and a group of listeners, with virtually no interaction or turn taking between the speaker and her/his audience. The setting is often marked by a physical and psychological separation. The speaker may be on a platform with a spotlight. Sentence structure tends to be complex, sophisticated vocabulary and two-handed signing forms are used, the rate of speech and signs is slower and more deliberate, and the volume of speech and size of signs is amplified. Additionally, the speaker may deliberately attempt to close the distance between her/himself and the audience by incorporating some consultative and informal register behaviors. Examples of formal register are the president of a university delivering an address or a keynote speaker.

Intimate register: Occurs between people who have a shared history or experiential base which influences their communication. Because of this common frame, the individuals are able to communicate with each other without using complete sentences. Turn taking is rapid, and sentences are frequently incomplete.

Consecutive interpreting: Occurs when initiating an interpretation after a speaker has generated a whole thought or several connected thoughts. The interpretation occurs in intervals of time, in which the speaker generates a portion of his/her remarks, completing whole thoughts at a time, then pauses and allows for the interpretation to be generated. This process is repeated until the communication event is complete.

Simultaneous interpreting: Occurs simultaneously with the speaker's remarks with only a minimal (5-15 seconds) lag of time.

Taken from: Witter-Merithew, A. CPCC Curriculum Project

Appendix D

NAD-RID CODE OF PROFESSIONAL CONDUCT

Scope

The National Association of the Deaf (NAD) and the Registry of Interpreters for the Deaf, Inc. (RID) uphold high standards of professionalism and ethical conduct for interpreters. Embodied in this Code of Professional Conduct (formerly known as the Code of Professional Conduct) are seven (7) tenets setting forth guiding principles, followed by illustrative behaviors.

The tenets of this Code of Professional Conduct are to be viewed holistically and as a guide to professional behavior. This document provides assistance in complying with the code. The guiding principles offer the basis upon which the tenets are articulated. The illustrative behaviors are not exhaustive, but are indicative of the conduct that may either conform to or violate a specific tenet or the code as a whole.

When in doubt, the reader should refer to the explicit language of the tenet. If further clarification is needed, questions may be directed to the national office of the Registry of Interpreters for the Deaf, Inc.

This Code of Professional Conduct is sufficient to encompass interpreter roles and responsibilities in every type of situation (e.g., educational, legal, medical). A separate code for each area of interpreting is neither necessary nor advisable.

Philosophy

the American Deaf community represents a cultural and linguistic group having the inalienable right to full and equal communication and to participation in all aspects of society. Members of the American Deaf community have the right to informed choice and the highest quality interpreting services. Recognition of the communication rights of America's women, men, and children who are deaf is the foundation of the tenets, principles, and behaviors set for in this Code of Professional Conduct.

Voting Protocol

This Code of Professional Conduct was presented through mail referendum to certified interpreters who are members in good standing with the Registry of Interpreters for the Deaf, Inc. Ad the National Association of the Deaf. The vote was to adopt or to reject.

Adoption of this Code of Professional Conduct

Interpreters who are members in good standing with the Registry of Interpreters for the Deaf, Inc. And the National Association of the Deaf voted to adopt this Code of Professional Conduct, effective July 1, 2005. This Code of Professional Conduct is a working document that is expected to change over time. The aforementioned members may be called upon to vote, as may be needed from time to time, on the tenets of the code.

The guiding principles and the illustrative behaviors may change periodically to meet the needs and requirements of the RID Ethical Practices System. These sections of the Code of Professional Conduct will not require a vote of the members. However, members are encouraged to recommend changes for future updates.

Function of the Guiding Principles

It is the obligation of every interpreter to exercise judgment, employ critical thinking, apply the benefits of practical experience, and reflect on past actions in the practice of their profession. The guiding principles in this document represent the concepts of confidentiality, linguistic and professional competence, impartiality, professional growth and development, ethical business practices, and the rights of the participants in interpreted situations to informed choice. The driving force behind the guiding principles is the notion that the interpreter will do no harm.

When applying these principles to their conduct, interpreters remember that their choices are governed by a “reasonable interpreter” standard. This standard represents the hypothetical interpreter who is appropriately educated, informed, capable, aware of professional standards, and fair-minded.

¹CODE OF PROFESSIONAL CONDUCT

Tenets

1. Interpreters adhere to standards of confidential communication.
2. Interpreters possess the professional skills and knowledge required for the specific interpreting situation.
3. Interpreters conduct themselves in a manner appropriate to the specific interpreting situation.
4. Interpreters demonstrate respect for consumers.
5. Interpreters demonstrate respect for colleagues, interns, and students of the profession.
6. Interpreters maintain ethical business practices.
7. Interpreters engage in professional development.

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Applicability

A. This Code of Professional Conduct applies to certified and associate members of the Registry of Interpreters for the Deaf, Inc., Certified members of the National Association of the Deaf, interns, and students of the profession.

B. Federal, state or other statutes or regulations may supersede this Code of Professional Conduct. When there is a conflict between this code and local, state or federal laws and regulations, the interpreter obeys the rule of law.

C. This Code of Professional Conduct applies to interpreted situations that are performed either face-to-face or remotely.

Definitions

For the purpose of this document, the terms are used:

Colleagues: Other interpreters.

Conflict of Interest: A conflict between the private interests (personal, financial, or professional) and the official or professional responsibilities of an interpreter in a position of trust, whether actual or perceived, deriving from a specific interpreting situation.

Consumers: Individuals and entities who are part of the interpreted situation. This includes individuals who are deaf, deaf-blind, hard of hearing, and hearing.

1.0 CONFIDENTIALITY

Tenet: Interpreters adhere to standards of confidential communication.

Guiding Principle: Interpreters hold a position of trust in their role as linguistic and cultural facilitators of communication. Confidentiality is highly valued by consumers and is essential to protecting all involved.

Each interpreting situation (e.g., elementary, secondary, and post-secondary education, legal, medical, mental health) has a standard of confidentiality. Under the reasonable interpreter standard, professional interpreters are expected to know the general requirements and applicability of various levels of confidentiality. Exceptions to the confidentiality include, for example, federal and state laws requiring mandatory reporting of abuse or threats of suicide, or responding to subpoenas.

Illustrative Behavior - Interpreters:

- 1.1 Share assignment-related information only on a confidential and “as-needed” bases (e.g., supervisors, interpreter team members, members of the educational team, hiring entities).
- 1.2 Manage data, invoices, records, or other situational or consumer-specific information in a manner consistent with maintaining consumer confidentiality (e.g., shredding, locked files).
- 1.3 Inform consumers when federal or state mandates require disclosure of confidential information.

2.0 PROFESSIONALISM

Tenet: Interpreters possess the professional skills and knowledge required for the specific interpreting situation.

Guiding Principle: Interpreters are expected to stay abreast of evolving language use and trends in the profession of interpreting as well as in the American Deaf community.

Interpreters accept assignments using discretion with regard to skill, communication mode, setting, and consumer needs. Interpreters possess knowledge of American Deaf culture and deafness-related resources.

Illustrative Behavior - Interpreters:

- 2.1 Provide service delivery regardless of race, color national origin, gender, religion, age, disability, sexual orientation, or any other factor.
- 2.2 Assess consumer needs and the interpreting situation before and during the assignment and make adjustments as needed.
- 2.3 Render the message faithfully by conveying the content and spirit of what is being communicated, using language most readily understood by consumers, and correcting errors discreetly and expeditiously.
- 2.4 Request support (e.g., certified deaf interpreters, team members, language facilitators) when needed to fully convey the message or to address exceptional communication challenges (e.g. instruction or language).
- 2.5 Refrain from providing counsel, advice, or personal opinions.
- 2.6 Judiciously provide information or referral regarding available interpreting or community resources without infringing upon consumer's rights.

3.0 CONDUCT

Tenet: Interpreters conduct themselves in a manner appropriate to the specific interpreting situation.

Guiding Principle: Interpreters are expected to present themselves appropriately in demeanor and appearance. They avoid situations that result in conflicting roles or perceived or actual conflicts of interest.

Illustrative Behavior - Interpreters:

- 3.1 Consult with appropriate persons regarding the interpreting situation to determine issues such as placement and adaptations necessary to interpret effectively.
- 3.2 Decline assignments or withdraw from the interpreting profession when not competent due to physical, mental, or emotional factors.
- 3.3 Avoid performing dual or conflicting roles in interdisciplinary (e.g. educational or mental health teams) or other setting.
- 3.4 Comply with established workplace codes of conduct, notify appropriate personnel if there is a conflict with this Code of Professional Conduct, and actively seek resolution where warranted.

- 3.5 Conduct and present themselves in an unobtrusive manner and exercise care in choice of attire.
- 3.6 Refrain from the use of mind-altering substances before or during the performance of duties.
- 3.7 Disclose to parties involved any actual or perceived conflicts of interest.
- 3.8 Avoid actual or perceived conflicts of interest that might cause harm or interfere with the effectiveness of interpreting services.
- 3.9 Refrain from using confidential interpreted information for personal, monetary, or professional gain.
- 3.10 Refrain from using confidential interpreted information for the benefit of personal or professional affiliations or entities.

4.0 RESPECT FOR CONSUMERS

Tenet: Interpreters demonstrate respect for consumers.

Guiding Principle: Interpreters are expected to honor consumer preferences in selection of interpreters and interpreting dynamics, while recognizing the realities of qualifications, availability, and situation.

Illustrate Behavior - Interpreters:

- 4.1 Consider consumer requests or needs regarding language preferences, and render the message accordingly (interpreted or transliterated).
- 4.2 Approach consumers with a professional demeanor at all times.
- 4.3 Obtain the consent of consumers before bringing an intern to an assignment.
- 4.4 Facilitate communication access and equality, and support the full interaction independence of consumers.

5.0 RESPECT FOR COLLEAGUES

Tenet: Interpreters demonstrate respect for colleagues, interns and students of the profession.

Guiding Principle: Interpreters are expected to collaborate with colleagues to foster the delivery of effective interpreting services. They also understand that the manner in which they relate to colleagues reflects upon the profession in general.

Illustrative Behavior - Interpreters:

- 5.1 Maintain civility toward colleagues, interns, and students.
- 5.2 Work cooperatively with team members through consultation before assignments regarding logistics, providing professional and courteous assistance when asked and monitoring the accuracy of the message while functioning in the role of the support interpreter.

- 5.3 Approach colleagues privately to discuss and resolve breaches of ethical or professional conduct through standard conflict resolution methods; file a formal grievance only after such attempts have been unsuccessful or the breaches are harmful or habitual.
- 5.4 Assist and encourage colleagues by sharing information and serving as mentors when appropriate.
- 5.5 Obtain the consent of colleagues before bringing an intern to an assignment.

6.0 BUSINESS PRACTICES

Tenet: Interpreters maintain ethical business practices.

Guiding Principle: Interpreters are expected to conduct their business in a professional manner whether in private practice or in the employ of an agency or other entity. Professional interpreters are entitled to a living wage based on their qualifications and expertise. Interpreters are also entitled to working conditions conducive to effective service delivery.

Illustrative Behavior - Interpreters:

- 6.1 Accurately represent qualifications, such as certification, educational background, and experience, and provide documentation when requested.
- 6.2 Honor professional commitments and terminate assignments only when fair and justifiable grounds exist.
- 6.3 Promote conditions that are conducive to effective communication, inform the parties involved if such conditions do not exist, and seek appropriate remedies.
- 6.4 Inform appropriate parties in a timely manner when delayed or unable to fulfill assignments.
- 6.5 Reserve the option to decline or discontinue assignments if working conditions are not safe, healthy, or conducive to interpreting.
- 6.6 Refrain from harassment or coercion before, during, or after the provision of interpreting services.
- 6.7 Render pro bono services in a fair and reasonable manner.
- 6.8 Charge fair and reasonable fees for the performance of interpreting services and arrange for payment in a professional and judicious manner.

7.0 PROFESSIONAL DEVELOPMENT

Tenet: Interpreters engage in professional development.

Guiding Principle: Interpreters are expected to foster and maintain interpreting competence and the stature of profession through ongoing development of knowledge and skills.

Illustrative Behavior - Interpreters:

7.1 Increase knowledge and strengthen skills through activities such as:

- pursuing higher education;
- attending workshops and conferences;
- seeking mentoring and supervision opportunities;
- participating in community events; and
- engaging in independent studies.

7.2 Keep abreast of laws, policies, rules and regulations that affect the profession.

Appendix E

Guidelines for Determination of Jurisdiction

Guidelines for Determination of Jurisdiction

Division of Service for the Deaf and Hard of Hearing
Robert G. Sanderson Community Center for the Deaf and Hard of Hearing

Certification Code of Professional Conduct Committee

Jurisdiction shall be determined on a case-by-case basis by the Code of Professional Conduct Committee in accordance with the following guidelines:

1. The complainant shall be an adult party at interest.
2. The interpreter shall be the holder of a sign language interpreter certificate issued by the Utah State Board of Education, an applicant for such a certificate, or an individual who has been formally admitted to an interpreter education program in a Utah institution of higher education.
3. The complaint shall relate to immoral conduct, unprofessional conduct, evident unfitness for duty, or other violations of standards of ethical conduct, performance, or professional competence.

Appendix F

Amendments and Additions