

**INTERPRETER SERVICES AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses provisions relating to interpreter services for the deaf or hard of hearing.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to the certification of and requirements for interpreters or transliterators for the deaf or hard of hearing; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-26a-101**, as enacted by Laws of Utah 1994, Chapter 306

**53A-26a-102**, as last amended by Laws of Utah 2013, Chapter 385

**53A-26a-201**, as enacted by Laws of Utah 1994, Chapter 306

**53A-26a-202**, as enacted by Laws of Utah 1994, Chapter 306

**53A-26a-301**, as last amended by Laws of Utah 2013, Chapter 385

**53A-26a-302**, as last amended by Laws of Utah 2009, Chapter 183



- 28 [53A-26a-303](#), as enacted by Laws of Utah 1994, Chapter 306
- 29 [53A-26a-304](#), as enacted by Laws of Utah 1994, Chapter 306
- 30 [53A-26a-305](#), as last amended by Laws of Utah 2013, Chapter 385
- 31 [53A-26a-401](#), as enacted by Laws of Utah 1994, Chapter 306
- 32 [53A-26a-501](#), as enacted by Laws of Utah 1994, Chapter 306
- 33 [53A-26a-502](#), as enacted by Laws of Utah 1994, Chapter 306

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35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section [53A-26a-101](#) is amended to read:

37 **CHAPTER 26a. INTERPRETER SERVICES FOR THE DEAF OR**  
38 **HARD OF HEARING ACT**

39 **53A-26a-101. Title.**

40 This chapter is known as the "Interpreter Services for the ~~[Hearing Impaired]~~ Deaf or  
41 Hard of Hearing Act."

42 Section 2. Section [53A-26a-102](#) is amended to read:

43 **53A-26a-102. Definitions.**

44 As used in this chapter:

45 ~~[(1) "Advisory board" or "board" means the Interpreters Certification Board created in~~  
46 ~~Section [53A-26a-201](#).]~~

47 (1) "Board" means the State Board of Education.

48 (2) "Certified interpreter" means ~~[a person]~~ an individual who is certified as meeting  
49 the certification requirements of this chapter.

50 (3) "Certified transliterator" means an individual whose national certification is  
51 recognized by the ICB.

52 ~~[(3)]~~ (4) (a) ~~["Hearing impaired"]~~ "Deaf or hard of hearing" means a hearing loss  
53 ~~[which]~~ that:

54 ~~[(a)]~~ (i) necessitates the visual acquisition of language; or

55 ~~[(b)]~~ (ii) adversely affects, but does not preclude, communication and the auditory  
56 acquisition of language ~~[but which does not preclude the auditory acquisition of language].~~

57 (b) "Deaf or hard of hearing" includes hearing impaired.

58 (5) "ICB" means the Interpreter Certification Board, created in Section [53A-26a-201](#).

59           ~~[(4)]~~ (6) "Interpreter or transliterator services" means services that facilitate effective  
60 communication ~~[between a hearing person and a person who is hearing impaired as defined by~~  
61 ~~Subsection (3)]~~;

62           (a) between a hearing individual and an individual who is deaf or hard of hearing; and

63           (b) through:

64           (i) American Sign Language or a language system or code that is modeled after  
65 American Sign Language, in whole or in part, or is in any way derived from American Sign  
66 Language[-]; or

67           (ii) cued language.

68           Section 3. Section **53A-26a-201** is amended to read:

69           **53A-26a-201. Interpreter Certification Board.**

70           (1) There is created to assist the ~~[State Board of Education]~~ board the ~~[Interpreters]~~  
71 Interpreter Certification Board consisting of the following 11 members:

72           (a) a designee of the director of the Division of Services to the Deaf and Hard of  
73 Hearing ~~[(DSDHH)]~~ in the Utah State Office of Rehabilitation;

74           (b) a designee of the State Board of Regents;

75           (c) a designee of the ~~[State Board of Education]~~ board;

76           (d) four professional interpreters or transliterators, recommended by the director of  
77 ~~[(DSDHH)]~~ the Division of Services to the Deaf and Hard of Hearing; and

78           (e) four ~~[persons]~~ individuals who are deaf or hard of hearing ~~[impaired]~~,  
79 recommended by the director of ~~[(DSDHH)]~~ the Division of Services to the Deaf and Hard of  
80 Hearing.

81           (2) (a) The ~~[State Board of Education]~~ board shall make all appointments to the ~~[board]~~  
82 ICB.

83           (b) In making ~~[its]~~ appointments under Subsections (1)(d) and (e), the ~~[State Board of~~  
84 ~~Education]~~ board shall give consideration to recommendations by interpreters and  
85 transliterators for the deaf or hard of hearing ~~[impaired]~~ and members of the deaf or hard of  
86 hearing ~~[impaired]~~ community.

87           (3) (a) ~~[Board]~~ ICB members shall serve three-year terms~~[-, except that for the initial~~  
88 ~~terms of board members, three shall serve one-year terms, four shall serve two-year terms, and~~  
89 ~~four shall serve three-year terms]~~.

90 (b) ~~[A person]~~ An individual may not serve more than two three-year consecutive  
91 terms.

92 (c) If a vacancy occurs on the ~~[board]~~ ICB for any other reason than the expiration of a  
93 term, the ~~[State Board of Education]~~ board shall appoint a replacement for the remainder of the  
94 term pursuant to Subsections (1) and (2).

95 (4) The ~~[State Board of Education]~~ board may remove any ~~[board]~~ ICB member for  
96 cause, which shall include misconduct, incompetence, or neglect of duty.

97 (5) The ~~[board]~~ ICB shall elect annually a chair and vice chair from among its  
98 members.

99 (6) The ~~[board]~~ ICB shall meet as often as necessary to accomplish the purposes of this  
100 chapter, but not less than quarterly.

101 (7) ~~[Board]~~ ICB members shall receive compensation for actual and necessary  
102 expenses in connection with their service on the ~~[board]~~ ICB, but ~~[shall]~~ may not receive a per  
103 diem.

104 Section 4. Section **53A-26a-202** is amended to read:

105 **53A-26a-202. Powers and duties of the ICB.**

106 (1) (a) The ~~[board]~~ ICB shall function as an advisory board to the ~~[State Board of~~  
107 ~~Education and under]~~ board.

108 (b) Under the direction of the ~~[State Board of Education]~~ board, the ICB shall perform  
109 the following duties concerning the certification of interpreters:

110 ~~[(a)]~~ (i) recommend to the ~~[state]~~ board appropriate rules;

111 ~~[(b)]~~ (ii) recommend to the ~~[state]~~ board policy and budgetary matters;

112 ~~[(c)]~~ (iii) recommend to the ~~[state]~~ board ~~[a]~~ passing ~~[score]~~ requirements for applicant  
113 examinations;

114 ~~[(d)]~~ (iv) screen applicants for certification ~~[and]~~;

115 (v) recommend certification, renewal, reinstatement, and recertification actions to the  
116 ~~[state]~~ board in writing;

117 ~~[(e)]~~ (vi) recommend standards of supervision for ~~[persons]~~ individuals in training to  
118 become certified interpreters; and

119 ~~[(f) act as presiding officer in conducting]~~

120 (vii) when designated by the board, conduct hearings associated with adjudicative

121 proceedings and ~~[in issuing]~~ issue recommended orders ~~[when so designated by the State Board~~  
122 ~~of Education]~~.

123 (2) The ~~[State Board of Education]~~ board, with the collaboration and assistance of the  
124 ~~[advisory board]~~ ICB, shall:

125 (a) ~~[prescribe]~~ establish certification qualifications for an individual to provide  
126 interpreter or transliterator services;

127 (b) ~~[prescribe]~~ establish rules governing applications for certification;

128 (c) provide for a fair and impartial method of examination of applicants;

129 (d) define unprofessional conduct, by rule, to supplement the definition under this  
130 chapter; and

131 (e) establish conditions for reinstatement and renewal of certification.

132 (3) (a) The ~~[advisory board]~~ ICB shall designate one of its members on a permanent or  
133 rotating basis to:

134 (i) assist the ~~[state]~~ board in reviewing complaints involving the unlawful or  
135 unprofessional conduct of a certified interpreter or certified transliterator; and

136 (ii) advise the ~~[state]~~ board in ~~[its]~~ the board's investigation of ~~[these complaints]~~ a  
137 complaint described in Subsection (3)(a)(i).

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

142 Section 5. Section **53A-26a-301** is amended to read:

143 **53A-26a-301. Certification required -- Classes of certification.**

144 (1) Except as ~~[specifically]~~ provided in Section **53A-26a-305**, an individual is required  
145 to be certified as a certified interpreter or certified transliterator if:

146 (a) that individual provides interpreter or transliterator services; and

147 (b) a state or federal law requires the interpreter or transliterator to be certified or  
148 qualified.

149 (2) The ~~[State Board of Education]~~ board shall issue a certification to any ~~[person]~~  
150 individual who qualifies under this chapter, in classifications determined by the ~~[board]~~ ICB,  
151 based upon recommendations from the ~~[advisory board]~~ ICB.

152 Section 6. Section **53A-26a-302** is amended to read:

153 **53A-26a-302. Qualifications for certification.**

154 [~~Each~~] An applicant for certification under this chapter shall:

155 (1) submit an application in a form [~~prescribed~~] designated by the [~~State Board of~~  
156 ~~Education~~] board;

157 (2) pay a fee determined by the [~~State Board of Education~~] board under Section  
158 **63J-1-504** [~~to help~~] in an amount to offset the costs of implementing this chapter for the  
159 administration of examinations for certification and for the issuance of certificates;

160 (3) be of good moral character; and

161 (4) comply with any other qualifications for certification established by the [~~State~~  
162 ~~Board of Education~~] board pursuant to Subsection **53A-26a-202**(2).

163 Section 7. Section **53A-26a-303** is amended to read:

164 **53A-26a-303. Certification term -- Expiration -- Renewal.**

165 (1) (a) The [~~State Board of Education~~] board shall issue each certificate under this  
166 chapter [~~in accordance with a three-year~~] on a four-year renewal cycle [~~established by rule~~].

167 (b) [~~The State Board of Education~~] In accordance with Title 63G, Chapter 3, Utah  
168 Administrative Rulemaking Act, the board may by rule extend or shorten a renewal cycle by as  
169 much as one year to stagger the renewal cycles [~~it~~] the board administers.

170 (2) At the time of renewal, the certified interpreter [~~must~~] or certified transliterator  
171 shall show satisfactory evidence of compliance with renewal conditions established by the  
172 [~~State Board of Education~~] board pursuant to Subsection **53A-26a-202**(2).

173 (3) Each certificate automatically expires on the expiration date shown on the  
174 certificate unless the certified interpreter or certified transliterator renews [~~it~~] the certificate in  
175 accordance with the conditions [~~prescribed by the State Board of Education~~] established by the  
176 board for renewal.

177 Section 8. Section **53A-26a-304** is amended to read:

178 **53A-26a-304. Continuing education.**

179 (1) (a) As a condition for renewal of certification, each certified interpreter or certified  
180 transliterator shall, during each [~~three-year~~] four-year certification cycle or other cycle defined  
181 by rule, complete a number of hours of qualified continuing professional education in  
182 accordance with standards defined by rule.

183 (b) The ~~[State Board of Education]~~ board shall determine the required number of  
184 qualified continuing professional education hours based upon recommendations from the  
185 ~~[advisory board]~~ ICB.

186 (2) If the renewal cycle is extended or shortened under Section ~~53A-26a-303~~, the board  
187 shall proportionately increase or decrease the number of qualified continuing professional  
188 education hours ~~[determined for renewal under Subsection (1) shall be increased or decreased~~  
189 ~~proportionately]~~ required for renewal.

190 Section 9. Section ~~53A-26a-305~~ is amended to read:

191 **53A-26a-305. Exemptions from certification -- Temporary or restricted**  
192 **certification.**

193 (1) The following individuals may engage in the practice of a certified interpreter~~;~~  
194 ~~subject to the stated circumstances and limitations,]~~ or certified transliterator without being  
195 certified under this chapter:

196 (a) an individual serving in the Armed Forces of the United States, the United States  
197 Public Health Service, the United States Department of Veterans Affairs, or other federal  
198 agencies while engaged in activities regulated under this chapter as a part of employment with  
199 that federal agency if the ~~[person]~~ individual holds a valid certificate or license to provide  
200 interpreter or transliterator services issued by any other state or jurisdiction recognized by the  
201 ~~[State Board of Education]~~ board;

202 (b) a student engaged in providing interpreter services while ~~[in training]~~ enrolled in a  
203 ~~[recognized school]~~ training program approved by the ~~[State Board of Education]~~ board, to the  
204 extent ~~[the student's activities]~~ that the services provided by the student are:

205 (i) supervised by ~~[qualified faculty, staff, or designee,]~~ an individual designated under  
206 the training program; and ~~[the services are a defined]~~

207 (ii) provided as part of the training program;

208 (c) an individual engaged in providing interpreter services while enrolled in an  
209 internship, residency, apprenticeship, or on-the-job training program approved by the ~~[State~~  
210 ~~Board of Education while under the supervision of qualified persons]~~ board, to the extent that  
211 the services provided by the individual are:

212 (i) supervised by an individual designated under the internship, residency,  
213 apprenticeship, or on-the-job training program; and

214 (ii) provided as part of the internship, residency, apprenticeship, or on-the-job training  
215 program;

216 (d) an individual residing in another state and certified or licensed to provide  
217 interpreter or transliterator services in that state, who is called in for a consultation by an  
218 individual certified to provide interpreter or transliterator services in this state, and the services  
219 provided are limited to that consultation;

220 (e) an individual who is invited by a recognized school, program, association, or other  
221 body approved by the [~~State Board of Education~~] board to conduct a lecture, clinic, or  
222 demonstration on interpreter or transliterator services if the individual does not establish a  
223 place of business or regularly engage in the practice of providing interpreter or transliterator  
224 services in this state;

225 (f) an individual licensed in another state or country who is in this state temporarily to  
226 attend to the needs of an athletic team or group, except that the individual may only attend to  
227 the needs of the team or group, including all individuals who travel with the team or group,  
228 except as a spectator; or

229 (g) an individual who is providing interpreter or transliterator services for a religious  
230 entity, to the extent that the religious entity is specifically exempted from liability under federal  
231 law.

232 (2) (a) An individual temporarily in this state who is exempted from certification under  
233 Subsection (1) shall comply with each requirement of the jurisdiction from which the  
234 individual derives authority to practice.

235 (b) Violation of any limitation imposed by this section is grounds for removal of  
236 exempt status, denial of certification, or another disciplinary proceeding.

237 (3) (a) Upon the declaration of a national, state, or local emergency, the [~~State Board of~~  
238 ~~Education~~] board, in collaboration with the [~~advisory board~~] ICB, may suspend the  
239 requirements for permanent or temporary certification of [~~persons~~] an individual who [~~are~~] is  
240 certified or licensed in another state.

241 (b) Individuals exempt under Subsection (3)(a) [~~shall be~~] are exempt from certification  
242 for the duration of the emergency while engaged in providing interpreter or transliterator  
243 services for which they are certified or licensed in the other state.

244 (4) The [~~State Board of Education~~] board, after consulting with the [~~advisory board~~]



245 ICB, may adopt rules for the issuance of temporary or restricted certifications if [~~their issuance~~  
246 ~~is necessary to or justified by~~] there is:

247 (a) a lack of necessary available [~~interpretive~~] interpreter or transliterator services in  
248 any area or community of the state, if the lack of services might be reasonably considered to  
249 materially jeopardize compliance with state or federal law; or

250 (b) a need to first observe an applicant for certification in a monitored or supervised  
251 practice of providing [~~interpretive~~] interpreter or transliterator services before a decision is  
252 made by the [~~board~~] ICB either to grant or deny the applicant a regular certification.

253 Section 10. Section **53A-26a-401** is amended to read:

254 **53A-26a-401. Grounds for denial of certification -- Disciplinary proceedings.**

255 (1) The [~~State Board of Education~~] board shall refuse to issue a certificate to an  
256 applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or  
257 otherwise act upon the certificate of a certified interpreter or certified transliterator who does  
258 not meet the qualifications for certification under this chapter.

259 (2) The [~~State Board of Education~~] board may refuse to issue a certificate to an  
260 applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the  
261 certificate of a certified interpreter or certified transliterator, issue a public or private reprimand  
262 to a certified interpreter [~~;~~ and] or certified transliterator, or issue a cease and desist order in any  
263 of the following cases:

264 (a) the applicant [~~or~~], certified interpreter, or certified transliterator has engaged in  
265 unprofessional conduct as defined in this chapter or by rule under this chapter;

266 (b) the applicant [~~or~~], certified interpreter, or certified transliterator has engaged in  
267 unlawful conduct as defined in this chapter;

268 (c) the applicant [~~or~~], certified interpreter, or certified transliterator has been  
269 determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

270 (d) the applicant [~~or~~], certified interpreter, or certified transliterator is unable to provide  
271 [~~interpretive~~] interpreter or transliterator services with reasonable skill and safety;

272 (i) because of illness, drunkenness, or excessive use of drugs, narcotics, chemicals, or  
273 any other type of material [~~;~~]; or

274 (ii) as a result of any other mental or physical condition, when the individual's  
275 condition demonstrates a threat or potential threat to the public health, safety, or welfare.

276 (3) An individual whose certificate has been suspended, revoked, or restricted under  
277 Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with  
278 conditions imposed by the [~~State Board of Education~~] board.

279 (4) The [~~State Board of Education~~] board may issue cease and desist orders:

280 (a) to a certified interpreter, certified transliterator, or applicant who may be disciplined  
281 under Subsection (1);

282 (b) to any [~~person~~] individual who [~~engages or represents himself to be engaged~~];

283 (i) unlawfully engages in the profession of a certified interpreter[~~;~~and] or certified  
284 transliterator;

285 (ii) unlawfully represents himself or herself as a certified interpreter or certified  
286 transliterator; or

287 (iii) receives payment for interpreter or transliterator services if not certified or exempt  
288 from certification under this chapter; and

289 (c) to any [~~person~~] individual who otherwise violates this chapter or any rules adopted  
290 under this chapter.

291 Section 11. Section **53A-26a-501** is amended to read:

292 **53A-26a-501. Unlawful conduct.**

293 (1) As used in this section, "regulated conduct" means practicing or engaging in,  
294 representing oneself to be practicing or engaging in, or attempting to practice or engage in the  
295 profession of a certified interpreter or certified transliterator.

296 (2) "Unlawful conduct" means any of the following conduct by [~~any~~] a person:

297 [~~(1) practicing or engaging in, representing oneself to be practicing or engaging in, or~~  
298 ~~attempting to practice or engage in the profession of a certified interpreter if the person is:]~~

299 (a) engaging in regulated conduct, unless exempt from certification under this chapter,  
300 when:

301 (i) the person is not certified [~~to do so or exempted from certification under this~~  
302 ~~chapter~~]; or

303 (ii) the person's certification is inactive;

304 [~~(b) restricted from doing so by a restricted, suspended, revoked, temporary,~~  
305 ~~probationary, or inactive certification;~~]

306 (b) engaging in regulated conduct in violation of a restriction, suspension, revocation,

307 probation, or temporary certification;

308        ~~[(2)]~~ (c) impersonating [~~another~~] a certified interpreter or certified transliterator or  
 309 practicing as a certified interpreter or certified transliterator under a false or assumed name,  
 310 except as permitted by law;

311        ~~[(3)]~~ (d) knowingly employing [~~any other person~~] an individual to practice or engage in  
 312 or attempt to practice or engage in the profession of a certified interpreter or certified  
 313 transliterator, if the employee is not certified [~~to do so~~] under this chapter;

314        ~~[(4)]~~ (e) knowingly permitting the person's authority to engage in the profession of a  
 315 certified interpreter or certified transliterator to be used by another, except as permitted by law;  
 316 or

317        ~~[(5)]~~ (f) applying for or obtaining certification or otherwise dealing with the [~~State~~  
 318 ~~Board of Education~~] board through the use of fraud, forgery, or intentional deception,  
 319 misrepresentation, misstatement, or omission.

320        Section 12. Section **53A-26a-502** is amended to read:

321        **53A-26a-502. Unprofessional conduct.**

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

325        (1) violating, or aiding or abetting any other person to violate, any provision of this  
 326 chapter or rule or order regulating certified interpreters or certified transliterators;

327        (2) violating, or aiding or abetting any other person to violate, any generally accepted  
 328 professional or ethical standard applicable to the profession of a certified interpreter or certified  
 329 transliterator; or

330        (3) physically, mentally, or sexually abusing or exploiting any person through conduct  
 331 connected with a certified [~~interpreter's~~] interpreter or certified transliterator's practice under  
 332 this chapter.