

In the Supreme Court of the State of Idaho

IN RE: ADOPTION OF IDAHO COURT
ADMINISTRATIVE RULE (I.C.A.R.) 50

ORDER ADOPTING
RULE

The Court having reviewed a recommendation from the Administrative Conference to adopt Idaho Court Administrative Rule 50,

NOW, THEREFORE, IT IS HEREBY ORDERED that Idaho Court Administrative Rule 50, be, and the same is hereby, ADOPTED as follows:

Rule 50. Policy Relating to Services Provided to People with Disabilities

(a) Statement of Policy. It is the policy of the Supreme Court to ensure equal access to and full participation in court programs, court services, and court activities by qualified individuals with disabilities, including attorneys, parties, probationers, witnesses, victims, potential jurors, and observers of court proceedings.

(b) Definitions: For purposes of these rules, the following words have the following meanings:

- (1) The term "Idaho Courts" is broadly defined as: The Supreme Court, the Court of Appeals, the district courts, the magistrate's divisions of the district courts, the counties with reference to their responsibilities for funding district and magistrate courts, and cities with regard to funding the magistrate division as provided by law.
- (2) Under the Americans with Disabilities Act of 1990, an "individual with a disability" is defined as an individual who has a physical or mental impairment that substantially limits one or more of the major life activities, has a record of such impairment, or is regarded as having such impairment.
- (3) To be a "qualified" individual with a disability, the individual with a disability must meet the essential eligibility requirements for the program or services offered by the court with or without reasonable accommodation.
- (4) "Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

- (5) "Auxiliary aids" include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDDs), videotext displays, readers, taped texts, Brailled materials, and large print materials. Examples of auxiliary aids or services of a personal nature not covered by this policy include prescription eyeglasses, hearing aids, wheelchairs, and/or personal medical or attendant care.
- (6) "Service animals" are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. The ADA does not restrict the type of dog breeds that can be service animals. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. Additionally, miniature horses that have been individually trained to do work or perform tasks for people with disabilities are also defined as service animals. Miniature horses generally range in height from 24 to 34 inches in height and generally weigh between 70 and 100 lbs.
- (c) Administrative Responsibilities. District Trial Court Administrators and the Administrative Office of the Courts shall administer the court rule for providing services and auxiliary aids to people with disabilities throughout the Idaho courts. The Clerk of the Supreme Court and Court of Appeals and the Administrative Office of the Courts shall administer the court rule for appellate cases.
- (d) ADA Coordinator. The Idaho Supreme Court has appointed the Human Resources Director of the Idaho Courts as the ADA Coordinator. The ADA Coordinator will provide training and resources to justices, district judges, magistrate judges, trial court administrators, and court personnel regarding effective communication and access to the courts.
- (e) Reasonable Accommodation. The Idaho Courts will provide reasonable accommodations to people with disabilities who have requested accommodation to have equal access and full participation in court proceedings, programs, and services, including any necessary auxiliary aids or services, excluding devices of a personal nature, for the duration of the time period for which accommodation is needed. Access to services must be provided unless the court can demonstrate that the accommodation would result in a fundamental alteration of the nature of a service, program, or activity or cause undue financial or administrative burden.
- (1) Requests for reasonable accommodation should be submitted to the Trial Court Administrator, or for appellate cases, to the Clerk of the Supreme Court and Court of Appeals. The request should identify the particular court program or service for which accommodation is sought, the date, time and location where the accommodation is needed, a description of the disability

and the type of accommodation being requested. Reasonable notice must be given to consider an accommodation request without causing undue disruption to the court proceeding. If the request concerns a particular court proceeding, the request should be made a minimum of two (2) business days in advance, if practicable, to allow consideration of the request and to arrange for reasonable accommodation.

- (2) Once the request for accommodation has been received, the district Trial Court Administrator, or the Clerk of the Supreme Court and Court of Appeals as appropriate, and the ADA Coordinator will review the request and engage in an interactive process with the requestor to provide reasonable accommodation. Primary consideration will be given to the aid or service requested, however if that aid or service results in an undue burden or fundamental alteration of the court proceeding, services, or programs, an equally effective alternative method may be suggested. The Trial Court Administrator, or the Clerk of the Supreme Court and Court of Appeals, will notify the requestor whether the accommodation has been approved or denied. If the request is approved the accommodation will be provided. If the requestor disagrees with the decision, a grievance may be filed.

(f) Service Animals. The Idaho Courts shall make reasonable modifications to its policies, practices, and procedures to permit the use of service animals by people with disabilities. Service animals are allowed to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. Service animals must be under the control of their handler at all times. Service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls. Service animals must be housebroken.

(g) Grievance Procedure. The Idaho Courts establishes this grievance procedure for anyone who wishes to file a grievance alleging discrimination on the basis of disability in court proceedings, provision of services, and programs of the Idaho Courts.

- (1) The grievance shall be submitted by the requestor and/or his or her designee to the ADA Coordinator as soon as possible but not later than thirty (30) calendar days after the alleged violation. A copy of the grievance shall be provided to the Trial Court Administrator or the Clerk of the Supreme Court and Court of Appeals.

Within fifteen (15) calendar days after the receipt of the grievance, the ADA Coordinator will confer with the requestor to discuss the alleged violation and possible resolution. Within fifteen (15) calendar days after the meeting, the ADA Coordinator will respond in writing and, where appropriate, in a format accessible to the requestor, such as large print, Braille, or audio tape. The

response will explain the position of the Idaho Courts and offer options for substantive resolution of the grievance.

- (2) In the event the complaint cannot be resolved by the ADA Coordinator, further appeal may be made to the Administrative Director of the Courts. The requestor shall submit their appeal to the Administrative Director of the Courts within fifteen (15) calendar days of receiving the written decision by the ADA Coordinator. Upon receipt of the appeal, the Administrative Director of the Courts will review the alleged violation as well as the proposed resolution and within fifteen (15) calendar days, provide the requestor with a written decision.

All grievances received by the ADA Coordinator and/or the Administrative Director of the Courts and the corresponding responses to the grievances shall be maintained by the Administrative Office of the Courts for a minimum period of three years.

(h) Communication. The Idaho Courts shall post information regarding reasonable accommodation, grievance procedures, and resources for individuals with disabilities on the Idaho Supreme Court website.

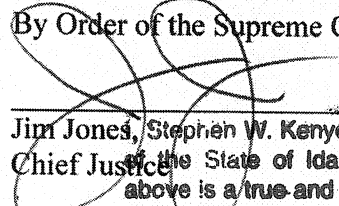
IT IS FURTHER ORDERED, that this order and these amendments shall be effective immediately.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Court Administrative Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 24th day of May, 2016.

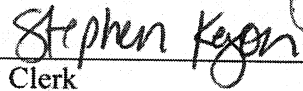
By Order of the Supreme Court



Jim Jones, Stephen W. Kenyon, Clerk of the Supreme Court
Chief Justice of the State of Idaho, do hereby certify that the

above is a true and correct copy of the Order
entered in the above entitled cause and now on
record in my office.

WITNESS my hand and the Seal of this Court 5/26/16

ATTEST:


Clerk


Clerk

4

By: Sina D. Thomas Deputy