



Report to Governor
C.L. "Butch" Otter
and the 1st Regular
Session of the 63rd
Idaho Legislature

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Language Access

Ensuring Meaningful Access to Justice

The Mission of the Idaho Courts is to “provide access to justice through the timely, fair, and impartial resolution of cases.” Language access services are not only an essential component of fulfilling this mission, but a legal requirement at the state and federal levels. The Idaho courts have an obligation to ensure equal access to justice and due process of law.

Judges must ensure that parties, witnesses, and other interested individuals are able to communicate in the English language, regardless of the reason they are accessing the courts. If they are unable to communicate in English, a professional interpreter must be appointed.

Providing language access goes beyond locating a bilingual person to provide interpreting or translating services. While being bilingual is a necessary prerequisite, it does not sufficiently qualify a person to serve as an interpreter or a translator for the courts. Professional, educated interpreters have a native-like mastery of English and a second language. Additionally, they possess the language, interpreting, and translating skills with specialized knowledge of legal and other terminology required to provide these critical services.

In 2013, court interpreter services were provided in 47 different languages. The top three languages were Spanish, Arabic, and Russian.

EFFORTS UNDERWAY TO IMPROVE LANGUAGE ACCESS IN THE COURTS

The Supreme Court continues to work diligently to improve access to the courts for all individuals. Since 1996, the Supreme Court has conducted annual orientations and skill-building workshops and has administered oral proficiency certification exams for prospective court interpreters. For the past 11 years, the Supreme Court and Ada County District Court have sponsored a conference for court interpreters. The conference affords Idaho certified court interpreters an opportunity to earn required continuing education credits in the state, consistent with Canon 10 of the Code of Professional Responsibility for Interpreters in the Judiciary relating to professional development.

In FY14, the Court appointed a standing committee on language access to perform the following tasks:

- Develop statewide policy recommendations and a statewide language access plan, including conducting a statewide needs assessment;
- Review current data collection processes, identify reporting needs and desirable data elements.
- Consider the current funding structure for language access services and develop a proposal to provide for statewide coordination and regional certified interpreter services.
- Develop methods and materials to increase court interpreter recruitments.

“The right to an interpreter rests most fundamentally... on the notion that no defendant should face the Kafkaesque spectre of an incomprehensible ritual which may terminate in punishment”

United States v. Carrion
488 F.2d 12 (1973) at 14

- Develop additional training opportunities for interpreters, judges, court personnel, members of the bar and others in the legal community.
- Enhance public outreach by developing information on how to access language services.
- Review and consider national standards for language access services in the courts.
- Identify and prioritize documents for translation into Spanish, in conjunction with statewide efforts to standardize forms, and review policies and practices for translating forms.

In FY14, the Committee’s work was focused in the following areas:

- Reviewing existing state statutes and court rules relating to language access to ensure they provide for meaningful access to services inside and outside the courtroom.
- Complete a statewide needs assessment to assist with policy development and resource allocation.
- Develop a statewide language access plan consistent with the requirement that recipients of federal funds create, implement and monitor compliance with a Language Access Plan.

LEGAL REQUIREMENTS TO PROVIDE LANGUAGE ACCESS SERVICE

In addition to state and federal constitutional due process rights, Idaho courts must abide by the following federal mandates, state statute, and Supreme Court rule:

- The Americans with Disability Act (ADA) protects individuals with a disability, including people who are deaf, who participate in court matters. The ADA mandates that individuals cannot be charged for the auxiliary aid or service provided.
- Title VI of the Civil Rights Act of 1964 and Omnibus Crime Control and Safe Streets Act of 1968 prohibits recipients of federal financial assistance from discriminating based on national origin by failing to provide “meaningful access” to individuals who have limited English proficiency (LEP). Pursuant to a 2000 Executive Order, the Department of Justice (DOJ) has established guidance for recipients of DOJ funds.
- Idaho Code § 9-205 requires that an interpreter be appointed in any civil or criminal action in which the witness or a party does not understand or speak the English language, or has a physical handicap which prevents him or her from fully hearing or speaking the English language.
- Idaho Court Administrative Rule 52 sets forth the policy of the Supreme Court relating to the appointment of interpreters. The rule provides for a priority of appointment of court interpreters. In addition, the rule states that interpreter services must be provided for individuals who are seeking access to the courts outside of a court proceeding.

2013 Statewide Cost of Language Services

The Idaho Trial Court Financing Report shows the total court interpreter expenses statewide are in excess of \$794,649. This figure does not necessarily take into account the salary of bilingual court personnel that also provide interpreting as an added job responsibility, nor does it include expenses for translation services. The Supreme Courts provides \$60,000 for staff interpreter positions in the 3rd and 4th judicial districts, and \$10,000 are available to the 5th, 6th, and 7th districts, to assist with the expense of freelance certified court interpreter services.

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