



Idaho Pro Se
Appellate Handbook

Clerk of the Idaho Supreme Court & Court of Appeals
P. O. Box 83720
Boise, Idaho 83720-0101

Charts for District Court Appeals

**Appeals from the Magistrate Court to the
District Court**

and

**Judicial Review of Agency Actions filed
with the District Court**

Deadlines: Appeals from the Magistrate Courts to District Courts

Document	Deadline
Notice of Appeal	42 days from date of judgment, order or decree of magistrate court (I.R.C.P. 83(b)); (I.C.R. 54(b) , I.R.F.L.P. 813)
Transcript	14 days from date Notice of Appeal is filed to pay estimated fee (I.R.C.P. 83(g) ; (I.C.R. 54(g)) The transcriber has 35 days from date estimated fee is paid (I.R.C.P. 83(g) ; (I.C.R. 54(g))
Objections to the Transcript	21 days from date Notice of Lodging of Transcript is mailed by the magistrate court clerk, otherwise the Transcript will be considered settled (I.R.C.P. 83(i) ; (I.C.R. 54(i))
Filing of Transcript and Record with District Court	The magistrate court clerk has 7 days from date the Transcript is settled (I.R.C.P. 83(j) ; (I.C.R. 54(j))
Augmentation of Transcript or Record	Within 21 days of the filing of the settled transcript and record. (I.R.C.P. 83(k)); Any time after Transcript and Record are filed. I.C.R. 54(k) ; I.A.R. 30)
Appellant's Brief	35 days from date Transcript and Record are filed with district court (I.R.C.P. 83(o) ; I.C.R. 54(o) ; I.A.R. 34)
Respondent's Brief or Cross-Appellant's Brief	28 days from date Appellant's Brief is served (I.R.C.P. 83(o) ; I.C.R. 54(o) ; I.A.R. 34)
Cross-Respondent's Brief	28 days from date Cross-Appellant's Brief is served (I.R.C.P. 83(o) ; I.C.R. 54(o) ; I.A.R. 34)
Reply Brief	21 days from date any Respondent's Brief is served (I.R.C.P. 83(o) ; I.C.R. 54(o) ; I.A.R. 34)

Deadlines: Judicial Review of Agency Actions filed with the District Court

Document	Deadline
Petition for Judicial Review	28 days from date of decision, order or award from administrative agency, or as provided in statute. (I.R.C.P. 84(b)(1))
Transcript	The transcriber has 14 days from the date the Petition for Judicial Review is filed. (I.R.C.P. 84(g)(1)(C))
Record	The agency clerk has 14 days from the date the Petition for Judicial Review is filed (I.R.C.P. 84(f)(3))
Objections to the Transcript and Record	14 days from date Notice of Lodging of Transcript and Record is mailed by the agency, otherwise the Transcript and Record will be considered settled (I.R.C.P. 84(j))
Filing of Transcript and Record with District Court	The agency has 42 days from date the Petition for Judicial Review is served unless otherwise provided by statute or district court order. (I.R.C.P. 84(k))
Augmentation of Transcript or Record	21 days from date settled Transcript and Record are filed with district court (I.R.C.P. 84(l))
Cross-Petition	14 days from service of the Petition for Judicial Review or within time for initial petition for judicial review (whichever is later), or as provided in statute (84(b)(2))
Petitioner's Brief	35 days from date Transcript and Record are filed with district court (I.R.C.P. 84(p) ; I.A.R. 34)
Respondent's Brief or Cross-Appellant's Brief	28 days from date Appellant's Brief is served (I.R.C.P. 84(p) ; I.A.R. 34)
Cross-Respondent's Brief	28 days from date Cross-Appellant's Brief is served (I.R.C.P. 84(p) ; I.A.R. 34)
Reply Brief	21 days from date any Respondent's Brief is served (I.R.C.P. 84(p) ; I.A.R. 34)

Charts for Supreme Court Appeals

**Appeals to the Idaho Supreme
Court from the District Courts**

**Appeals to the Idaho Supreme
Court from Idaho Public Utilities
Commission**

**Appeals to the Idaho Supreme
Court from the Idaho Industrial
Commission**

Deadlines: Expedited Appeals of Custody Cases to the Supreme Court (I.A.R. 11.1)

Document/Procedure	Deadline
Notice of Appeal	14 days from file-stamp date of judgment granting or denying a petition for termination of parental rights or order granting or denying petition for adoption (I.A.R. 12.2(a)(1)) 14 days from date of issuance of order granting motion for permissive appeal of judgment or order involving custody of a minor. Child Protective Act proceeding, or a judgment or order made after judgment in a guardianship proceeding arising under Title 15, Chapter 5 of the Idaho Code. (I.A.R. 12.2(a)(2) , I.A.R. 11.1)
Reporter's Transcript	The transcript shall be prepared and ready for service within 21 days from the date of the filing of the Notice of Appeal (I.A.R. 12.2(c))
Clerk's Record	The district court clerk has 21 days from date Notice of Appeal is filed to prepare the Clerk's Record for service. (I.A.R. 12.2(b))
Augmentation of Transcript or Record	Any time after Transcript and Record are filed, but before this issuance of the Opinion. (I.A.R. 30)
Appellant's Brief	21 days from date Transcript and Record are filed with Supreme Court (I.A.R. 12.2(d))
Respondent's Brief or Respondent's Brief and Cross-Appellant's Brief	21 days from date Appellant's Brief is served (I.A.R. 12.2(d))
Reply Brief and Cross-Respondent's Brief (if there is a Respondent's Brief and Cross-Appellant's Brief)	14 days from date any Respondent's Brief and Cross-Appellant's Brief is served (I.A.R. 12.2(d))
Reply Brief (if there is no Respondent's Brief and Cross-Appellant's Brief)	7 days from date any Respondent's Brief is served (I.A.R. 12.2(d))
Oral Argument	If requested, the Supreme Court must hold oral argument within 120 days from date Notice of Appeal is filed (I.A.R. 12.2(f))

Deadlines: Appeals from the District Courts/Agencies to the Supreme Court

Document	Deadline (I.A.R.)
Notice of Appeal	42 days from date of the file-stamp on the judgment, order or decree of district court or administrative agency + up to 180 days if district court retains jurisdiction (I.A.R.14)
Reporter's Transcript	The court reporter has 30 days from date the reporter is notified by the Supreme Court of the requested transcript, if transcript is estimated to be under 100 pages in length (I.A.R. 24(e)) The court reporter has 63 days from date the reporter is notified by the Supreme Court of the requested transcript, if transcript is estimated to be more than 100 pages but less than 500 pages in length
Clerk's Record	The clerk of the district court or administrative agency has 28 days from date Notice of Appeal is filed to prepare the clerk's or agency record and have it ready for service.(I.A.R.27(d))
Request for Additional Transcript or Record	14 days from date Notice of Appeal is filed (I.A.R.19(c))
Objections to the Transcript or to the Record	28 days from date Transcript and Record are served by the district court clerk, or else Transcript and Record will be considered settled (I.A.R.29(a))
Filing of Transcript and Record with Supreme Court	The district court clerk has 7 days from date the Transcript and Record are settled (I.A.R.29(b))
Motion for Involuntary Dismissal for Failure to Comply With the I.A.R.	21 days before oral argument on the merits (I.A.R.32(a))
Appellant's Brief	35 days from date that Transcript and Record are filed with Supreme Court (I.A.R.34(c))
Respondent's Brief or Cross-Appellant's Brief	28 days from date Appellant's Brief is served (I.A.R.34(c))
Cross-Respondent's Brief	28 days from date Cross-Appellant's Brief is served (I.A.R. 34(c))
Reply Brief	21 days from date any Respondent's Brief is served (I.A.R. 34(c))
Motion for Extension of Time to File Brief	Due date of brief (I.A.R. 34(d))
Petition for Rehearing by the Court of Appeals or Supreme Court	21 days from date Court's opinion is filed (I.A.R. 42(a) ; I.A.R. 116)
Brief on the Petition for Rehearing	14 days from date Petition is filed (I.A.R. 42(b))
Petition for Review by the Supreme Court	21 days from date Court of Appeals opinion or order is announced or after the announcement of an order denying rehearing.(I.A.R. 118(a))
Brief in Support of the Petition for Review	14 days after Petition for Review is filed (I.A.R. 118(a))

Filing Fees for Supreme Court Appeals/Filings

Type of Appeal	Filing Fee
Appeals in civil cases (Except habeas corpus and post-conviction relief)	\$129.00*
Appeals from the Public Utilities Commission	\$94.00
Appeals from the Industrial Commission	\$94.00
Cross-appeals in civil cases	\$129.00*
Cross-appeals from the IPUC or IC cases	\$94.00
Applications to intervene	\$94.00
Petitions for a special writ under the original jurisdiction of the Supreme Court (Except habeas corpus and criminal cases)	\$76.00
Petitions for rehearing (Except criminal cases, habeas corpus, and post-conviction relief)	\$71.00
Appeals in criminal cases (Fees for reporter's transcript and clerk's record still apply.)	\$0.00
Petitions for writ of habeas corpus	\$0.00
Petitions for post-conviction relief	\$0.00
Petition for review of a decision of the Court of Appeals	\$0.00
No appellate filing fee is required for State agencies and counties, including public defenders * (I.A.R. 23(a))	

*Total filing fee to be paid to the district court clerk or agency at the time the Notice of Appeal or Notice of Cross Appeal is filed. Please see the Civil Filing Fees Schedule for a breakdown of how the fee is distributed. <https://isc.idaho.gov/ircp-new>

Checklist for Supreme Court Briefs

Requirement (I.A.R.)	✓
Paper: unruled and untreated 8 ½” by 11” white paper (I.A.R. 36(b))	
Typeface: no smaller than 12 point Times New Roman (I.A.R. 36(b)) <ul style="list-style-type: none"> - Prisoners may write documents in legible, hand-printed black ink (I.A.R. 36(b)) 	
Line Spacing: double-spaced, quotations may be single-spaced and indented (I.A.R. 36(b))	
Page Margin: 1 ½” at top and bottom of page, 1” at each side (I.A.R. 36(b))	
Page Numbers: number each page at the bottom (I.A.R. 36(b))	
Front Cover: must include <ul style="list-style-type: none"> - Title of the court (Supreme Court or Court of Appeals) - Title of the action - Title of the document (e.g. Appellant’s or Respondent’s Brief) - Name of district court appealed from - Name of presiding trial judge - Names and addresses of all counsel of record showing for whom they appear (I.A.R. 36(a)) 	
Pursuant to I.A.R. 35 , the briefs of the parties shall include the following divisions under appropriate headings: <ul style="list-style-type: none"> - Table of Contents - Table of Cases and Authorities - Statement of the Case - Issues Presented on Appeal (Appellant’s Brief) or Additional Issues Presented on Appeal (Respondent’s Brief) - Attorney Fees on Appeal (if requested) - Argument - Conclusion 	
Length: must be 50 pages or under, excluding covers, the caption page, the table of contents, the table of authorities, the certificate of service and any addendums or exhibits. (Except in an appeal on unitary review of a capital criminal and post-conviction case, where briefs must not exceed 100 pages.) <ul style="list-style-type: none"> - Briefs in excess of 50 pages may be filed with consent of the Supreme Court (I.A.R. 34(b)) 	
Signing: original must be signed by all pro se Appellants. (I.A.R. 34(a))	
Certification of Service: certify service and the date and manner of service in the original brief filed with the Supreme Court (I.A.R. 20)	

- FAQ -

What is an appeal?

If you are unsatisfied with a court decision, you may appeal the decision to try to get a different result. An appeal asks a higher court to look at the trial court's decision and determine whether the trial court was correct in its reasoning or procedure. Please review applicable court rules to determine which court decisions are appealable to a higher court.

Who can appeal?

Generally, anyone who loses in the trial court can appeal, with or without the help of an attorney. If you decide to appeal your case without an attorney, you are representing yourself "pro se." That said, because the appeals process is difficult and complex, if at all possible, you should hire an attorney who is experienced and educated in appellate litigation. If you chose to represent yourself, the courts will not give any special treatment. Pro se or self-represented appellants must also follow the Idaho Appellate Rules, just as attorneys are required to do.

Any party aggrieved by an appealable judgment, order or decree, as defined in the Idaho Appellate Rules of a district court, the Public Utilities Commission, or the Industrial Commission may appeal such decision to the Supreme Court as provided by the appellate rules. [I.A.R. 4](#) The Industrial Commission and Public Utilities Commission are referred to as "administrative agencies" in the Idaho Appellate Rules.

Where can I find the Idaho Appellate Rules?

The Idaho Appellate Rules are in the Idaho Court Rules, available at law libraries and some public libraries, and on the Internet at <http://www.isc.idaho.gov/rules/iar>.

What appellate courts are there in Idaho?

There are two appellate courts above the magistrate and district trial courts, the Idaho Court of Appeals and the Idaho Supreme Court. Different types of cases are assigned to each appellate court. [I.A.R. 108](#)

Can the appellate courts appoint an attorney to represent me?

No, the Court of Appeals and the Supreme Court do not appoint attorneys. If you cannot afford to hire a lawyer, you can file a motion with the trial court asking for pauper status, which means that that court may grant you permission to proceed without paying all the fees and costs, and/or appoint an attorney to assist you, if it is a criminal case.

How much does it cost to appeal a decision to the Supreme Court?

An appeal involves paying the filing fee, a fee to prepare the transcript (if requested), and a fee for the clerk's record. The filing fee for a notice of appeal, the document that starts the appeal process, can be found by reviewing the Civil Filing Fees Schedule located at the bottom of the Idaho Rules of Civil Procedure webpage. <https://isc.idaho.gov/ircp-new>

This filing fee may be waived in certain cases. ([I.A.R. 23\(c\)](#)). If a transcript is requested, there will be fees payable to the court reporter for preparing the transcript. The clerk will also charge fees to prepare the clerk's record of documents from the trial court. Fees for the transcript and record may also be waived. ([I.A.R. 24\(h\)](#) and [27\(e\)](#)).

If I want to appeal the trial court's decision, what should I do first?

The trial court or administrative agency must have entered an appealable judgment or order. Idaho Appellate Rule [11](#) and [11.1](#) provide lists of judgments and orders that may be appealed to the Supreme Court. If the trial court or administrative agency has entered an appealable judgment or order, you will then be able to file a notice of appeal with the district court clerk or administrative agency. [I.A.R. 17](#)

What is a notice of appeal?

A notice of appeal is a written document filed with the trial court or administrative agency, naming the final judgment or order you wish to appeal, stating the issues you intend to use to argue that the appellate court should change the decision, and requesting transcripts and record documents from the trial court or administrative agency. The form for filing a notice of appeal to the Supreme Court may be found here: <https://isc.idaho.gov/main/forms>

How do I file a document?

You file a document in the appellate process when you give it to the clerk. A notice of appeal must be physically received by the district court clerk or clerk of secretary of the administrative agency to be filed. If filing a Notice of Appeal with a district court, you may use the Electronic Filing System (<https://icourt.idaho.gov/>), mail the document to the trial court, or file in person. Please contact the appropriate agency for the manner in which Notices of Appeal may be filed with the agency.

When must I file a notice of appeal?

Normally, a notice of appeal must be physically filed with the trial court or administrative agency within 42 days from the day the final judgment or order was entered and filed. [I.A.R. 14](#) That date is shown on the filing stamp of the clerk of the trial court. Certain cases require the notice of appeal to be filed sooner than 42 days from the date of the judgment.

How do you calculate the time for filing of documents with the clerk?

In computing the time period allowed for any appellate document, you do not include the day of the filing. For example, if the appellant's brief was filed on Monday, you begin to count the 28 days for filing the respondent's brief on Tuesday. If the deadline is on a Saturday, Sunday or legal holiday, the document is not due until the end of the next business day after that date. [I.A.R. 22](#)

Are the time deadlines for child custody appeals different from regular appeals?

Yes, they can be. In a child custody case where the best interest of the child would be served by an immediate appeal, any party may move the magistrate court judge who is hearing the case for permission to seek an immediate appeal to the Supreme Court from a final judgment, as defined by [Rule 802](#) of the Idaho Rules of Family Law Procedure, or order entered after final judgment involving custody of a minor, those orders of decrees of the magistrate court in a Child Protective Act proceeding specified in section 16-1625, Idaho Code, or a final judgment, as defined in [Rule 54\(a\)](#) of the Idaho Rules of Civil Procedure or an order made after final judgment, in a guardianship proceeding arising under Title 15, Chapter 5 of the Idaho Code. A direct appeal means the case would not be first heard on appeal by the district court. [I.A.R. 12.1](#)

If you wish to directly appeal to the Supreme Court, you must file a motion for permission to appeal with the magistrate court within 14 days from the date of entry of the appealable judgment or order. The magistrate judge will then enter an order approving or disapproving the motion within 14 days from the date the motion has its hearing. If the magistrate judge grants permission for an immediate appeal to the Supreme Court, the appeal is not valid unless a notice of appeal is physically filed with the clerk of the district court within 14 days from the date file stamped on the order of the magistrate judge granting permission. If permission is denied by the magistrate court, then a party must file a motion with the Supreme Court requesting permission to appeal within 14 days from the date the magistrate judge entered the order denying the motion. If the Supreme Court accepts the appeal, it will give you permission to file a notice of appeal within a set time period, and then the appeal will proceed in an expedited or faster manner.

Where must I file a notice of appeal?

A notice of appeal must be filed with the trial court or administrative agency that decided the original case. [I.A.R. 14](#)

How much does it cost to file a notice of appeal?

This depends on the type of appeal you are filing. Please consult the Civil Filing Fees Schedule located at the bottom of the civil rules webpage. <https://isc.idaho.gov/ircp-new>
There is no appellate filing fee for criminal cases, but there will be a fee for preparation of a clerk's record and transcript.

What if I cannot afford the filing fee?

If you cannot afford the appellate filing fee, you can request a waiver from the district court or administrative agency, which must be approved by the Supreme Court. You must first apply with the trial court or administrative agency for a waiver, and the trial court/administrative agency will then issue an order recommending either waiver or no waiver. You must then file the trial court/administrative order with your notice of appeal. You will also need to file a verified petition, motion or affidavit requesting the waiver and stating for the reason why you cannot afford the filing fee. If you are represented by Idaho Legal Aid Services, the filing fee will be automatically waived. [I.A.R. 23\(c\)](#)

Do I need to request a transcript?

You should request a reporter's transcript when filing your notice of appeal if what was said at the trial or hearing is relevant to the issues you intend to use to argue that the trial court's decision should be changed. If you are requesting a transcript, you must specify the date of the relevant proceedings in the notice of appeal as well as the court reporter who was present. [I.A.R. 25\(a\)](#) The Supreme Court will not review audio recordings of trial court proceedings.

When do I need to pay for the transcript?

If you request a reporter's transcript, you must serve the reporter a copy of the notice of appeal by mail before you file the notice of appeal. The reporter will then estimate the cost of preparing a transcript. The counties have different procedures, but you will either pay the estimated reporter's fees to the clerk of the trial court or the assigned court reporter, as determined by the Trial Court Administrator. [I.A.R. 24](#)

What if I cannot afford the estimated reporter's fees for the transcript?

If you cannot afford the estimated fees, the trial court may waive payment. [I.A.R. 24\(h\)](#)

What is the record?

There is a "standard" record for civil, criminal, and administrative cases, each containing different documents. Generally, the record includes certain documents that were filed in trial court/administrative agency and any orders or judgments made by the trial court/administrative agency that are included pursuant to court rule ([I.A.R. 28](#)).

If there are other documents in your case that you think are relevant to your appeal, and those documents are not included in a "standard" record, then you must request the additional documents in your Notice of Appeal.

Will the trial court clerk/administrative agency clerk provide me with a copy of the clerk's record?

Yes, once payment is made, or if fees are waived, the clerk will prepare and serve a copy of the record on both parties. The district court clerk/agency clerk will not file the clerk's record and transcript with the Supreme Court until settlement is complete. [I.A.R. 29\(b\)](#)

When do I need to pay for the record?

You must pay the district court clerk/administrative clerk the estimated fee for the record before filing the notice of appeal. The clerk charges a fee of \$.65 per page to prepare the electronic clerk's record. If a hard copy is requested, the clerk will charge \$1.25 per page. [I.A.R. 27](#)

What is a certificate of service?

Any filed document must also be served on the other party or the attorney of the other party, by delivering a copy of the document to them. The certificate of service shows who you served, when the document was served, and how the document was delivered. Any document that you file with the court must be accompanied by a certificate of service. Failing to serve documents on the other party may lead to dismissal of your appeal. [I.A.R. 20](#)

What is involved in the certification of the notice of appeal?

As a pro se or self-represented appellant filing a notice of appeal, you must prepare an affidavit showing or certifying that the filing fees and estimated fees for the transcript and record have been paid or waived, that the trial court's reporter has been served, and that all other required parties have been served. This information is included on the Notice of Appeal form found on the judiciary website. <https://isc.idaho.gov/main/forms>

Is a cost bond required in Idaho appeals?

No cost bond is required in Idaho appeals. If the judgment or order concerns money or property, you will need to apply for a supersedeas bond to stay enforcement of the judgment or order while the appeal is pending. No supersedeas bond would be necessary if the party who won the judgment or order agrees in writing not to execute while the appeal is pending. [I.A.R. 16](#)

What happens after I file my notice of appeal with the trial court or administrative agency?

Once the notice of appeal is filed, the district court clerk or administrative agency clerk will transmit the Notice of Appeal to the Supreme Court. When all related fees are paid or waived, the reporter will usually have either 30 or 63 days to complete the court/agency transcript, depending on the estimate length. The clerk will have 28 days to

prepare the clerk/agency record from the day the notice of appeal is filed. After the transcript and record are prepared, the district court clerk/agency clerk will serve the parties with copies of the transcript and record. Each party then has 28 days from the date of service to file objections to the transcript or the record. Objections are filed with the district court or administrative agency. [I.A.R. 29](#). If there are no objections, the transcript and record are considered settled, and the clerk then has 7 days to file the transcript and record with the Supreme Court. Filing the transcript and record sets the deadlines for the parties to complete the next set of required documents, their briefs. Parties are notified by the Supreme Court when the record and transcript are filed.

What is the Electronic Filing System?

The Electronic Filing System is a system the Supreme Court provides to electronically file documents into a case. The rules for using this system are identified under the Idaho Rules for Electronic Filing and Service, found here: <https://isc.idaho.gov/irefs>

Who must use the Electronic Filing System?

Attorneys are required to electronically file documents, but if you are pro se, you are not required to use the system. However, you may elect to do so. [I.R.E.F.S. 4](#)

How do I use the Electronic Filing System?

For information about how to use the Electronic Filing System, including computer system requirements, visit the e-filing FAQ here: <https://icourt.idaho.gov/efile-faqs>

What is a motion?

A motion is a request made by a party for the court to perform some action.

What kinds of motions are allowed in the appellate courts, and when can they be made?

A respondent, or party that did not file for appeal, may make a motion for involuntary dismissal under certain situations in order to stop the appeal. Motions for involuntary dismissal are allowed for failure to comply with the Idaho Appellate Rules but must be filed at least 21 days before oral arguments are scheduled. Motions for involuntary dismissal for failure to file the notice of appeal or time, or failure to file the petition for rehearing on time, may be made at any time. An appellant may make a motion for voluntary dismissal and stop the appeal at any time. All other motions allowed under the Idaho Appellate Rules may be made at any time. [I.A.R. 32](#)

What is a brief?

After your appeal is filed, you will be able to write a brief that states the legal arguments you are making in support of your appeal. Because some appellate cases will not have access to oral arguments, the brief is very important. It may be your only chance to state your case to the appellate court. As a pro se litigant, you are required, just as attorneys are required, to provide legal authority and citation to the record in your brief. If you do not, your argument could be waived. You can visit the law library to look up cases that may support your argument. In addition to authority and citation, appellate briefs must include the divisions listed in Idaho Appellate Rule 35. See Idaho Appellate Rules [34](#), [35](#), and [36](#) for information regarding preparing your appellate brief(s).

When must I file a brief?

The deadlines for filing a brief are based on when the clerk filed the transcript and record with the Supreme Court. Generally, the appellant must file the appellant's brief within 35 days of the date when the clerk filed the transcript and record. The respondent must file the respondent's brief within 28 days of the service of appellant's brief. If there is a reply brief, that must be filed within 21 days of the service of respondent's brief. [I.A.R. 34\(c\)](#) If the appeal is expedited, the timeframes for filing appellate briefs will be shortened.

Where must I file a brief?

Briefs must be filed with the clerk of the Supreme Court. [I.A.R. 34](#)

Who must I serve the brief upon?

You must serve all parties to the appeal with your appellate briefs. [I.A.R. 20](#)

Can I include new evidence in my brief, which was not brought up at trial?

No, appellate parties are not allowed to introduce new evidence. The appellate courts are limited to reviewing the evidence on record from the trial court or administrative agency.

What is a standard of review?

A standard of review is a guideline used by an appellate court to examine the trial court's/administrative agency's decision. The standard of review also determines how much deference the appellate court will pay to the decision of the trial court/administrative agency, which may have a large impact on the chance that the appeal will be successful. It is important to identify the proper standard of review when writing your appellate brief, as it may help you in formulating your arguments in your brief.

How should I format my citations?

For the transcript, reference it with the designation "Tr" followed by the volume, page and line number abbreviated as "Vol. I, p. 14, L. 16". For the record, reference it with the

designation “R” followed by the by the volume, page and line number abbreviated as “Vol. I, p. 14, L. 16”. Examples for the transcript, record, and other legal authorities follow below:

- Transcript: (Tr., Vol. I, p. 14, L. 16)
- Record: (R., Vol. I, p. 14, L. 16)
- Exhibit: (Ex. 23)
- Idaho Code: I.C. § 49-801(1)
- Idaho Appellate Court Decision: Nicholls v. Blaser, 102 Idaho 559 (1981)
- Idaho Appellate Rules: I.A.R. 35(e)
- Idaho Constitution: Idaho Const. Art. I, § 2

[I.A.R. 35](#)

What is oral argument?

Oral arguments give each party to an appeal the chance to present their legal arguments before a panel of judges from the appellate court handling the case. If an oral argument is set in your case, it will be scheduled by the Supreme Court or Court of Appeals. [I.A.R. 37](#)

An appeal may be set for oral argument, or submitted for a decision on the briefs previously filed.

How long do oral arguments last?

Each party is allowed 30 minutes to argue their side of the appeal, but the appellate court may shorten or lengthen the time given or consider the appeal without hearing arguments. [I.A.R. 37](#)

What happens after briefing and oral arguments?

The appellate court will announce its opinion on the appeal, Copies of the opinion will be sent to each party and to the trial court, as well as the Publishers if it is a Published opinion. The opinion will be placed on the Supreme Court website. (<https://isc.idaho.gov/appeals-court/opinions>) After 21 days from the announcement of the opinion, the opinion becomes final, unless a Petition for Review or Petition for Rehearing is filed by one of the parties

What is a remittitur?

A remittitur is a document issued by the clerk of the Supreme Court, advising the trial court/administrative agency that the opinion has become final and that the trial court/administrative agency must follow the opinion. The remittitur is filed with the trial court/administrative agency and copies are sent to all parties to the appeal and the presiding judge at the trial court. [I.A.R. 38](#)

What is an extraordinary writ?

An extraordinary writ is a different way for an appellate court to review a trial court's decision, distinct from an appeal. They are extraordinary because they are very unusual and hard to secure. Examples of extraordinary writs include writs of prohibition and writs of mandamus. Idaho Appellate Rule 5 provides the process for filing writs with the Supreme Court. [I.A.R. 5](#)

What is a writ of prohibition?

A writ of prohibition is an extraordinary writ that an appellate court issues to stop a lower court from doing something unlawful or improper.

What is a writ of mandamus?

A writ of mandamus is an extraordinary writ that an appellate court issues to command a lower court or official to do something.

Glossary of Legal Terms

Abuse of Discretion: An appellate court uses this standard of review where a party may argue that a lower court's decision was greatly unsound, unreasonable, or illegal.

Administrative Agency: A federal, state or local government body responsible for applying or enforcing a particular type of law.

Affidavit: A freely given, signed and notarized statement under oath of facts put in writing.

Affirm: When an appellate court confirms or supports the decision made by the lower court.

Appeal: A review by an appellate court of a lower court's decision to determine if mistakes had been made, and if the mistakes are significant enough to require some form of remedy.

Appellant: The party appealing a decision through filing a notice and appellant's brief.

Appellant's Brief: The initial brief, where the appellant outlines the mistakes made in the lower court's decision and states why the appellate court should reverse the decision.

Appellate: Having to do with an appeal.

Brief: A written document filed with the court that presents the legal arguments of the party.

Certificate of Service: A section of a court document stating that the filing party served a copy to the opposing party.

Citation: A reference to legal authority, such as cases or statutes.

Civil Case: A case where the subject is a dispute between private individuals or organizations.

Criminal Case: A case where the subject is a violation of Idaho law, and where one party is the State and the other party is an individual or organization charged with the violation.

Defendant: The individual or organization being sued in a civil case or being charged with a crime in a criminal case.

De Novo: An appellate court uses this standard of review where it reviews the record evidence and law without deference to the lower court's reasoning.

Docket: A formal record of all the proceedings and filed documents in a court case.

Expedited Appeals: The court will expedite or speed up cases involving child custody, Child Protective Act proceedings, termination of parental rights, adoption, and all other appeals given priority by rule or statute.

Final Judgment: A final decision by the trial court.

Guardian Ad Litem: A court-appointed guardian who appears in a lawsuit on behalf of an incompetent or minor party.

Habeas Corpus: A writ or order used to bring an individual before a court.

Incompetent: Lacking legal ability in some respect.

Indigent: An individual who is unable to afford the fees and costs related to a case.

In Forma Pauperis: A party who cannot pay all of the court fees and costs can apply for "in forma pauperis" or "pauper status," where the court grants the party permission to proceed without paying all the fees and costs.

Interlocutory Appeal: An appeal that is filed before the trial court has entered its final order in the case.

Judgment: A court's final appealable order in a case.

Jurisdiction: A court's power or authority to decide a case.

Litigant: A party to a lawsuit.

Lower Court: The court where a case starts, also known as the "trial court."

Mandamus: A writ or order used to command a court to do something.

Motion: A written or oral request to a court to have the court do something or allow one of the parties to do something.

Movant: A party making a motion.

Notice of Appeal: A document filed in the trial court that informs the trial court that the party intends to appeal the lower court's decision. This document also asks the trial court to prepare the clerk's record and court transcript.

Opinion: The written decision made by the appellate court, describing the facts and reasoning behind its decision.

Oral Argument: A spoken presentation before an appellate court in support of a party's legal arguments.

Order: A written or oral decision or command by a court.

Party: An individual or organization by or against whom a lawsuit is brought.

Petitioner: A party in whose behalf writs are filed, issued or ordered.

Plaintiff: The party who starts a lawsuit in civil cases, or the prosecutor acting for the State of Idaho in criminal cases.

Pro Se: A person who represents himself or herself in court proceedings without the help of an attorney.

Remand: When an appellate court sends a case back to the lower court for further action.

Remedy: The thing, act or relief sought by a party through a lawsuit.

Reply Brief: A brief filed to respond to and rebut the arguments and facts raised in the other party's brief.

Respondent: The party who won in the lower court decision against the appellant.

Respondent's Brief: The respondent's answer to the appellant's brief, where the respondent argues that the decision of the lower court was correct.

Reverse: When an appellate court changes the decision of a lower court.

Service: The formal delivery of a legal notice or document.

Standard of Review: The legal standard an appellate court uses to review a case on appeal, which determines how much deference the appellate court will show to the lower court's decision.

Stay: A court order to suspend or postpone all or part of a judicial proceeding.

Summary Judgment: A judgment granted when there is no question about any facts that would change the outcome of the case, and the party asking for summary judgment is entitled to win as a matter of law.

Transcript: An official written record of everything that was said in a trial or hearing.

Writ: A court's written order, available as an extraordinary remedy, commanding the person to whom it is addressed to do something or refrain from doing something.

HELPFUL LINKS:

Idaho Judiciary Main Page: <https://isc.idaho.gov/>

All Idaho Court Rules: <https://isc.idaho.gov/main/idaho-court-rules>

Forms related to appeals: <https://isc.idaho.gov/main/forms>

Supreme Court and Court of Appeals Opinions: <https://isc.idaho.gov/appeals-court/opinions>

Idaho Court Assistance Office: <https://courtsselfhelp.idaho.gov/>

Locate an Idaho State Court: <https://isc.idaho.gov/main/local-district-courts>

Idaho State Law Library: <https://isll.idaho.gov/>

Idaho State Statute and Constitution search: <https://legislature.idaho.gov/statutesrules/>

Idaho Volunteer Lawyers Program: <https://ilf.idaho.gov/ivlp/legal-assistance/>

Idaho Legal Aid: <https://www.idaholegalaid.org/>

Idaho State Bar: <https://isb.idaho.gov/>

Idaho Judicial Council: <https://judicialcouncil.idaho.gov/>

Idaho Legislature: <https://legislature.idaho.gov/>

Idaho State Public Defender: <https://spd.idaho.gov/>

Idaho State Appellate Public Defender: <https://sapd.idaho.gov/>

Idaho Office of the Attorney General: <https://www.ag.idaho.gov/>

Idaho Office of the Governor: <https://gov.idaho.gov/>

Idaho Public Utilities Commission: <https://puc.idaho.gov/>

Idaho Industrial Commission: <https://iic.idaho.gov/>

To watch Supreme Court oral arguments live visit
Idaho in Session: <https://www.idahoptv.org/shows/idahoinsession/judiciary/>

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<https://isc.idaho.gov/appeals-court/archive>