

CLERK OF THE DISTRICT COURT MANUAL

22.0 WORKING WITH COURT INTERPRETERS

Revised October 2006

22.1 STATEMENT OF POLICY

"It is the policy of the Supreme Court and the intent of these rules to secure the rights, constitutional and otherwise, of persons who, because of a non-English-speaking cultural background or physical impairment, are unable to understand or communicate adequately in the English language when they appear in the courts or are involved in court proceedings." (I.C.A.R. 52).

I.C. § 9-205 requires the court to appoint an interpreter whenever a witness or party does not understand or speak English or has a physical handicap that prevents him from fully hearing or speaking the English language; however, considerable delay can occur when the court learns at the last minute that an interpreter is going to be needed. This rule requires a party to notify the court fourteen days in advance of the proceeding or as soon as practicable in the event of an expedited hearing. If the party fails to do so without good cause and as a result the proceeding has to be postponed, then the court in its discretion may impose costs and expenses incurred against the party or the party's attorney." (I.R.C.P. 43(b)(2)).

The Supreme Court administers the State Court Interpreter program and is responsible for maintaining a current roster of interpreters. When it is determined that an interpreter will be needed for one or both parties, the court clerk should notify the interpreter used in the county of the upcoming hearing. A list of interpreters is kept at the clerk's or trial court administrator's office as well as the Supreme Court home page. If the court encounters difficulty in locating a qualified or certified interpreter for a particular language, the clerk should notify the trial court administrator of the upcoming need and call the Court Interpreter Program Manager, Janica Bisharat (208) 947-7417.

22.2 PRIORITY OF APPOINTMENT FOR INTERPRETERS

An interpreter shall be appointed when an interpreter is requested or when the appointing authority determines that a principal party in interest or witness does not communicate in or understand the English language sufficiently to permit effective participation in a court proceeding. Appointing authority is defined as a district or magistrate judge, including pro tem and retired judges within the scope of their appointments, or the judge's designee.

In any court proceeding in which an interpreter is required, the appointing authority shall appoint an interpreter according to the following priority:

1. a certified interpreter,
2. a conditionally approved interpreter,

3. a qualified interpreter.

The appointing authority may appoint an interpreter of lower priority on the foregoing list only when good cause exists. Good cause includes, but is not limited to, a determination made prior to the proceeding by the appointing authority that:

1. Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of an interpreter of higher priority are not reasonably available to the appointing authority; or
2. The current list of certified interpreters maintained by the Idaho Supreme Court does not include an interpreter certified in the language spoken by the non-English speaking person. The court is not required to articulate such a determination in a court proceeding, unless the appointment of an interpreter is challenged by a party. If a party challenges the appointment of an interpreter, the court shall make a determination on the record as to whether the appointment of the interpreter conforms with the provisions of I.C.A.R. 52.

22.3 INTERPRETER OATH

All court-appointed interpreters, before commencing their duties, shall take the following oath:

"Do you solemnly swear or affirm that you will interpret and/or translate accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Idaho Code of Professional Responsibility for Interpreters in the Judiciary?"

Pursuant to I.C.A.R. 52, a district judge or magistrate judge may administer the oath to an interpreter in writing, and the written oath shall be filed with the clerk of the district court for the county. Once the oath has been filed, it shall remain in effect until such time as the interpreter is removed under subsection (f) of the rule, and while the written oath remains in effect it need not be administered to the interpreter at any subsequent court proceeding in the county.

22.4 COST OF INTERPRETER SERVICES

In all court proceedings in which an interpreter is appointed, the court shall determine a reasonable fee for the interpreter's services, which shall be paid out of the district court fund or paid by the county as prescribed by law.

22.5 LOCATING COURT INTERPRETERS FOR LANGUAGES OTHER THAN SPANISH

Once a determination has been made that a court interpreter is needed, court personnel must gather information relating to the language or dialect of the non-English-speaking individual, the region the person is from, or other cultural or sociological traits. In many cases, the more information gathered regarding the non-English-speaking person, the easier it will be to locate an interpreter who will meet their language needs.

Following is a list of resources that may assist court personnel in locating an interpreter for languages other than Spanish:

- Court interpreter rosters maintained by the Administrative Office of the Courts (http://www.isc.idaho.gov/intpret_cov.htm)
- AT&T Language Line Services provides interpretation services 24 hours a day, 7 days a week for many different languages.
- The National Association of Judicial Interpreters and Translators (www.najit.org) and the American Translators Association (www.atanet.org) are two national organizations that maintain directories that contain a great deal of information, including an interpreter's language, experience, certification, and location.
- Websites such as www.ethnologue.com, www.infoplease.com/countries, or <http://www.odci.gov/cia/publications/factbook/index.html> can be helpful in order to determine the country and also the region in which a particular language is spoken. Knowing the country or region of origin can help locate a group of immigrants that have settled in the United States. Then, the courts in that area should be contacted in order to check for availability of interpreters for that particular language.
- Contact the appropriate embassy (www.embassy.org).
- Contact a college or university with a large language program.
- The Consortium for State Court Interpreter Certification website includes a list of program managers for the 36 member states. The website can be found through the National Center for State Court's website under NCSC Projects and Court Interpretation (<http://www.ncsconline.org>).

If you come to a point where you have exhausted these resources, please contact the Court Interpreter Program Manager, Janica Bisharat, at (208) 947-7417 or jbisharat@idcourts.net.