



I.C.R. 11. Pleas

Idaho Criminal Rule 11. Pleas

(a) Alternatives.

(1) *In General.* A defendant may plead guilty or not guilty. If a defendant refuses to plead or if a defendant corporation fails to appear, the court must direct the entry of a plea of not guilty.

(2) *Conditional Pleas.* With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty, reserving in writing the right, on appeal from the judgment, to review any specified adverse ruling. If the defendant prevails on appeal, the defendant must be allowed to withdraw defendant's plea.

(b) Inadmissibility of Pleas, Offers of Pleas, and Related Statements. The admissibility of pleas, offers of pleas, and related statements is governed by Rule 410 of the Idaho Rules of Evidence.

(c) Acceptance of Plea of Guilty. Before a plea of guilty is accepted, the record of the entire proceedings, including reasonable inferences, must show:

(1) the voluntariness of the plea;

(2) that the defendant was informed of the consequences of the plea, including minimum and maximum punishments, and other direct consequences that may apply;

(3) that the defendant was advised that, by pleading guilty, the defendant would waive the right against compulsory self-incrimination, the right to trial by jury, and the right to confront witnesses against the defendant;

(4) that the defendant was informed of the nature of the charge against the defendant; and



(5) whether any promises have been made to the defendant, or whether the plea is a result of any plea bargaining agreement, and if so, the nature of the agreement and that the defendant was informed that the court is not bound by any promises or recommendation from either party as to punishment.

(d) Other Advisories on Acceptance of Plea. The district judge must, prior to entry of a guilty plea or the making of factual admissions during a plea discussion, inform the defendant of the following:

(1) The court must inform all defendants that, if a defendant is not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship.

(2) If the defendant is pleading guilty to any offense requiring registration on the sex offender registry, the court must inform the defendant of the registration requirements.

(3) If the defendant is waiving the right to appeal or other post-conviction proceedings as part of a guilty plea, and the court is aware of this waiver, the court must ask the defendant if defendant is aware of the waiver of appeal or other proceedings.

(e) Plea Advisory Form. As an aid in taking a plea of guilty, the court may require the defendant to fill out and submit a plea advisory form. If a plea advisory form is used it must be the Supreme Court plea advisory form found in Appendix A of these rules. In addition to the form, the court must make a record showing:

(1) the defendant understands the nature of the charge(s), including any mental element such as intent, knowledge, or state of mind;

(2) the defendant understands the maximum and minimum punishments, and any other direct consequences that may apply;

(3) the defendant understood the contents of the guilty plea advisory form, and the defendant's plea is voluntary.

(f) Plea Agreement Procedure.



(1) *In General.* The prosecuting attorney and the attorney for the defendant or the defendant when acting without an attorney may discuss an agreement that may include a waiver of the defendant's right to appeal the judgment and sentence of the court and that, on the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney will do any of the following:

(A) move for dismissal of other charges;

(B) make a recommendation, or agree not to oppose the defendant's request, for a particular sentence, with the understanding that the recommendation or request is not binding on the court;

(C) agree that a specific sentence is the appropriate disposition of the case; or

(D) agree to any other disposition of the case.

The court may participate in this discussion.

(2) *Notice of Plea Agreement.* If a plea agreement is reached by the parties, the court must, on the record, require the disclosure of the agreement in open court or, on a showing of good cause, in camera, at the time the plea is offered. If the agreement has the terms of subdivision (f)(1)(A), (C) or (D), the court may accept or reject the agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report. If the agreement has the term stated in subdivision (f)(1)(B), the court must advise the defendant that, even if the court does not accept the recommendation or request, the defendant has no right to withdraw his plea.

(3) *Acceptance of a Plea Agreement.* If the court accepts the plea agreement, the court must inform the defendant that it will be bound by the terms of the plea agreement in the final disposition of the case.

(4) *Rejection of a Plea Agreement.* If the court rejects the plea agreement, the court must, on the record:

(A) inform the parties of the rejection;

(B) advise the defendant personally in open court or, on a showing of good cause, in camera, that the court is not bound by the plea agreement;



(C) afford the defendant the opportunity to withdraw the defendant's plea; and

(D) advise the defendant that if the defendant persists in the guilty plea the disposition of the case may be less favorable to the defendant than the terms of the plea agreement.

([Adopted February 22, 2017, effective July 1, 2017](#) [1]; [amended May 14, 2019, effective July 1, 2019](#) [2].)

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Links

[1] <https://isc.idaho.gov/./rules/ICR/ICR-11a-Adoption-of-Newly-Formatted-ICR-Feb-22-2017.pdf>

[2] <https://isc.idaho.gov/./rules/ICR/ICR-11b-Order-Amending-ICR-and-Adoption-of-Rule-37-05-14-19.pdf>