I.C.A.R. 52. Policy Declaration Relating To Court Interpreters

Idaho Court Administrative Rule 52. Policy Declaration Relating To Court Interpreters

(a) 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, or are otherwise seeking access to the courts.

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

(1) "Appointing authority" means a district or magistrate judge, including pro tem and retired judges within the scope of their appointments, or the judge's designee.

(2) "Certified ñ Master Level interpreter" means an individual who has passed the certification exam with an 80 percent or higher on each portion of the exam: simultaneous, consecutive, sight-English, and sight-foreign. The score for the sight translation portion of the exam will not be combined.

(3) "Certified interpreter" means a an individual who has passed the certification exam with a 70 percent or higher in the simultaneous and consecutive portions, and an average of 70 percent across both sight-English and sight-foreign. Must achieve a minimum score of 65 percent in both sight translations.

(4) "Conditionally approved interpreter" means a an individual who has received an overall score of 55 percent or higher on the certification exam without reaching the certified or master level, with no single score falling below a 50 percent, including on the separate sight translation scores. An individual may fall under this level of qualification for a period of only two years.

(5) "Court proceeding" means any civil, criminal, domestic relations, juvenile, traffic, or other in-court proceeding in which a non-English-speaking person is a principal party in interest or a witness.

(6) "Non-English-speaking person" means any principal party in interest or witness whose communication or understanding in the English language does not permit effective participation in a court proceeding.

(7) "Principal party in interest" means a person involved in a court proceeding who is a named party or who will be bound by the decision or action or who is foreclosed from pursuing his or her rights by the decision or action which may be taken in the proceeding.

(8) "Registered interpreter" means no certification exam exists for the language, yet the individual has passed the written exam with an 80 percent and has completed the orientation workshop, and has passed an oral English exam and other language proficiency assessment.

(9) "Witness" means anyone who testifies in any court proceeding.

(c) Implementing Responsibilities. The Supreme Court shall administer the State Court Interpreter Program. The Administrative Director of the Courts shall establish programs and develop resources for the improvement of court interpreting services, including training and certification of interpreters, establishing and maintaining a program policy manual, maintaining and distributing a directory of interpreters, and collecting and analyzing statistics or other data pertinent to interpreter utilization. An inventory of standard forms and training materials will also be maintained.

(d) Priority of Appointment for Interpreters.

(1) Subject to subsection (d)(2) of this rule, an interpreter shall be appointed when the appointing authority or his/her designee 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.

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

(A) a certified ñ master level or certified interpreter,

(B) a conditionally approved interpreter,

(C) a registered 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 deter-mination made prior to the proceeding by the appointing authority that:

(i) 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

(ii) 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 this rule.

(3) In extraordinary circumstances, upon a finding by the court that no certified master level interpreter, certified interpreter, conditionally approved interpreter or registered interpreter is available, and that it is necessary to conduct the proceedings before such an interpreter is likely to become available, the appointing authority may appoint a person as interpreter if the appointing authority finds that such person is able to interpret from English to the language of the non-English speaking person and from the language of that person into English.

(e) Interpreter Oath. All court 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?."

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 this 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.

(f) Removal of an Interpreterin an Individual Case. Any of the following actions shall be good cause for a judge to remove an interpreter:

(1) being unable to interpret adequately;

(2) knowingly and willfully making false interpretation while serving in an official capacity;

(3) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;

(4) failing to appear as scheduled;

(5) misrepresentation of credentials or other material misstatement of fact relative to appointment as an interpreter;

(6) removal from the Idaho Supreme Courtís list of interpreters; and

(7) a plea of guilty or finding of guilt, regardless of the form of judgment or withheld judgment, of a crime substantially related to the qualifications, functions, or duties of an interpreter, or that involves dishonesty, fraud, or moral turpitude;

(8) failing to follow other standards prescribed by law and the Idaho Code of Professional Responsibility for Interpreters in the Judiciary.

(g) 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.

(Adopted September 25, 1998; effective November 1, 1998; amended December 13, 2004, effective December 15, 2004; amended August 4, 2005, effective August 15, 2005; ammended September 30, 2008, effective August 28, 2008.)

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