

# TRIAL COURT ADMINISTRATION

Policy 522

December 12, 2019

## LANGUAGE ACCESS PLAN

### I. LEGAL BASIS AND PURPOSE

This document serves as the plan for the North Dakota Court System to provide services to individuals with limited English proficiency in compliance with Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et seq; and 28 C.F.R. § 42 et seq. The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to limited English proficiency individuals who come in contact with the North Dakota Court System. An individual with limited English proficiency is one whose first language is other than English and who has a limited ability to speak, read, write or understand English.

This Plan was developed to ensure equal access to court services for persons with limited English proficiency and hearing impaired persons. Although deaf and hard of hearing individuals are covered under the Americans with Disabilities Act (ADA) rather than Title VI of the Civil Rights Act, they have been included in this plan for the purpose of keeping all information related to language access in the same location.

### II. NEEDS ASSESSMENT

#### A. Statewide

The State of North Dakota provides court services to a wide range of persons, including who do not speak English or who are hearing impaired. Service providers include the North Dakota Supreme Court and the district courts in the eight judicial districts.

According to the United States Census Bureau which tracks language use and English ability, in the 2015 American Community Survey conducted by the Census Bureau, 94.69% of North Dakota's population over the age of 5 speaks only English at home. Thirty-four thousand, two hundred thirty eight (34,238) or 1.42% of the North Dakota population over the age of 5 speaks a language other than English at home. Of that number, 28% or 9,554 said they spoke English less than "very well". According to the same census, the most commonly spoken non-English language groups in North Dakota are, in descending order of frequency:

1. Spanish (9,190)
2. German (8,561)
3. Asian/Pacific Islander (4,032)
4. African (2,448)

5. Native American (1,761)
6. Scandinavian (1,673)

As reported in the 2015 American Community Survey conducted by the U.S. Census Bureau, 97% of North Dakota residents are U.S. born residents, and 66% of North Dakota residents were born in North Dakota.

### **B. North Dakota Court System**

The North Dakota Court System will make every effort to provide language access services to all individuals. However, the following list shows the languages that are most frequently interpreted in the court.

- Spanish (512)
- Nepali (92)
- Kirundi (68)
- Somali (64)
- Arabic (51)
- Sign Language (47)

This information on actual use of interpreters is based on data collected from the North Dakota District Court for the period of January 1, 2017 through December 31, 2018.

## **III. LANGUAGE ASSISTANCE RESOURCES**

### **A. Interpreters Used in the Courtroom**

North Dakota Rule of Civil Procedure 43© provides: “If a person with limited English proficiency or a deaf person is involved in a proceeding as a party, witness, person with legal decision-making authority, or person with a significant legal interest in the matter, the court must provide an interpreter.” Similar language is used in Rule of Criminal Procedure 28.

An interpreter will be provided for deaf litigants and witnesses in compliance with the Americans with Disabilities Act and N.D.C.C. § 28-33-02.

Under Administrative Rule 50, it is the policy of the judicial system to “ensure that adequate court interpreter services are provided for those persons who are unable to readily understand or communicate in the English language because of a disability or a non-English speaking background.”

Administrative Rule 50 lists when interpreters will be provided at no cost to a deaf individual or an individual with limited English proficiency.

## **1. Determining the Need for an Interpreter in the Courtroom**

There are various ways that the North Dakota Court System will determine whether a court customer needs an interpreter for a court hearing. First, the individual may request an interpreter. The North Dakota Court System displays an “I need an interpreter” sign translated into North Dakota’s five most frequently interpreted languages in each of its clerk of court and juvenile court locations, which states: *“I do not read or speak English and require an interpreter.”*

Second, court personnel and judges may determine that an interpreter is appropriate for a court hearing. Many people who need an interpreter will not request one because they do not realize that interpreters are available, or because they do not recognize the level of English proficiency or communication skills needed to understand and participate in court proceedings. Therefore, when it appears that an individual has any difficulty communicating, a judge, juvenile court director, or clerk of court will request an interpreter on behalf of the individual.

Third, the North Dakota case management system for the district courts, which is a statewide, single-database case management system, tracks interpreter needs through case records and party records. Case record interpreter flags assist staff in recognizing when an interpreter is needed for a hearing on a particular case. Party record interpreter information stays with the party and is available statewide for future filings and party search results for that same individual.

Finally, individuals such as probation officers, attorneys, social workers or law enforcement officers may notify the court about an individual’s need for an interpreter for an upcoming court hearing.

## **2. Court Interpreter Qualifications**

The North Dakota Court System hires interpreters for courtroom hearings in compliance with the North Dakota Rules of Court, Administrative Rule 50, which sets forth the qualifications and procedures for ensuring that effective interpreter services are provided. The North Dakota Court System does not have a state certification process for interpreters, however, in accordance with Rule 50, for deaf or hearing-impaired individuals, the court appoints interpreters who are certified by the Registry of Interpreters for the Deaf, by the National Association of the Deaf, the North Dakota Association for the Deaf or those interpreters having the approval of the superintendent for the state school for the deaf.

For non-English speaking individuals, the court appoints “interpreters with certification by a recognized interpreter certification program in another jurisdiction and presence on a statewide roster of interpreters, if any, maintained by that jurisdiction.” If no such qualified interpreter can be found, “a court may obtain the service of any other interpreter whose actual qualifications have been determined by examination or other appropriate means.” “Actual qualifications” is defined in

Administrative Rule 50 as “the ability to readily communicate with a non-English speaking person and orally transfer the meaning of statements to and from English and the language spoken by the non-English speaking person, or the ability to communicate with a hearing-impaired, or otherwise disabled person, interpret the proceedings, and accurately repeat and interpret the statements of the hearing-impaired or otherwise disabled person.”

The Court periodically provides an introductory two-day training session for court interpreters, which includes an overview of the court system, court processes, and legal terminology. Participants learn about the role of the interpreter and how to best handle interpreter cases. Following the training, participants are tested on knowledge and ethics.

The North Dakota Court System maintains a statewide roster of interpreters which is available through our public website.

Whenever a non-certified interpreter is used in the courtroom, judges are encouraged to inquire into the interpreter’s skills, professional experience, and potential conflicts of interest.

If an interpreter can be located but is unable to physically attend a court proceeding, the court may use interactive television or telephone as an alternative means of providing interpreter services. If an interpreter cannot be located, the court may use a commercial, telephone-based or remote video interpreter service to facilitate communication with the individual.

Bilingual court staff do not serve as court interpreters, however they may be asked to assist in securing an interpreter. Bilingual court staff may be asked to assist on a limited basis if an individual contacts the court in person or on the telephone and asks for immediate language access assistance to understanding a court process, procedure or notice.

More information on court interpreters is available to court personnel and the public in the “North Dakota Court Interpreter’s Handbook” which is published and maintained by the State Court Administrator’s Office, and is available in print and on the court’s website:

## **B. Spoken Language Services Outside the Courtroom**

The North Dakota Court System is also responsible for taking reasonable steps to ensure that individuals have meaningful access to court information and court services outside the courtroom. This is perhaps the most challenging situation facing court staff because in most situations they are charged with assisting individuals without an interpreter. Individuals requiring language access assistance may come into contact with court personnel via the phone, in person, or other means. To that end, the North Dakota Court System has the following resources:

- Interpreter services through International Translation Services in Moorhead, Minnesota
- Metro Interpreter Resources Center (MIRC)

- Commercial telephone interpreter services
- “I need an Interpreter” cards in the six foreign languages most commonly spoken in North Dakota
- Online communication aids, including translation services and glossaries
- Relay North Dakota 24-hour text-telephone service for the deaf and hearing impaired, 1-800-366-6889 (English) or 1-800-435-8590 (Spanish)
- Tips for serving deaf court customers found in the North Dakota Court Interpreter’s Handbook
- Assisted listening devices for the hearing-impaired
- Certified real-time court reporting services

**C. Translated Forms and Documents**

In general, interpreters are expected to provide sight translation of documents for individuals with limited English proficiency. The North Dakota Court System does have a limited number of translated forms and documents. These translated forms and documents are available on the court’s intranet site, <http://admin.ndcourts.gov> under the Admin tab for internal use.

<b>Case Type</b>	<b>Written Form</b>	<b>Language</b>
<b>Criminal</b>	<b>Application for Public Defender</b>	<b>Spanish</b>
	<b>Statement of Rights – Felony</b>	<b>Spanish</b>
	<b>Statement of Rights – Misdemeanor</b>	<b>Spanish</b>
	<b>Statement of Rights – Infraction</b>	<b>Spanish</b>
	<b>Entry of Plea</b>	<b>Spanish</b>
	<b>Felony Judgment</b>	<b>Spanish</b>
	<b>Appendix A (Conditions of Probation)</b>	<b>Spanish</b>
	<b>Appendix A – Sex Offenders (Conditions of Probation)</b>	<b>Spanish</b>
	<b>Misdemeanor Judgment</b>	<b>Spanish</b>
<b>Juvenile</b>	<b>Application for Public Defender</b>	<b>Spanish</b>
<b>Civil</b>	<b>Application for Public Defender</b>	<b>Spanish</b>
<b>Criminal, Civil, Juvenile</b>	<b>Authorization for Release of Information</b>	<b>Spanish</b>
	<b>Video</b>	
<b>Criminal</b>	<b>Statement of Rights – Felony, Misdemeanor, Infraction</b>	<b>Spanish Bosnian French Somalian Arabic Nepali</b>
<b>Juvenile</b>	<b>Statement of Rights – Delinquency Statement of Rights – Protection</b>	<b>Spanish Bosnian French Somalian Arabic Nepali</b>

**IV. TRAINING**

The North Dakota Court System provides training to inform staff of the court’s responsibility to provide Americans with Disabilities Act (ADA) accommodations and interpreter services and to give

staff the tools necessary to respond to such requests. The following is a list of training programs available for court employees and judicial officers.

#### Court Conferences

Breakout sessions at court conferences will periodically be used to present information to current employees and elected officials about the court's responsibilities in providing language access services. This training serves as a refresher course and includes a question/answer session on how to respond to individuals with hearing disabilities or language proficiency challenges.

#### Workshops and In-Services

This one-day training session is provided by staff of the North Dakota School for the Deaf. Trainers provide information on hearing loss and communication tips, deaf awareness issues, deaf culture, basic sign language, assistive-listening devices and equipment, hearing aids, audiograms, and work and classroom modifications.

#### Staff Training

Training is periodically provided to assist staff in responding to language access needs. This training outlines the resources available to staff and explains how to determine if an interpreter is necessary, how to locate interpreters, how to assess an interpreter's qualifications, and how to use interpreters effectively.

### **V. PUBLIC NOTIFICATION AND EVALUATION OF LANGUAGE ACCESS PLAN**

#### **A. Language Access Plan Approval and Notification**

The North Dakota Court System Language Access Plan has been approved by the Chief Justice and a copy has been filed with the Office of the State Court Administrator.

Any suggested revisions to the plan will be submitted to Office of the State Court Administrator, who will then forward them to the Chief Justice for action. In addition, the North Dakota Court System will post this plan on its website.

#### **B. Biennial Evaluation of the Language Access Plan**

The North Dakota Court System will conduct a biennial needs assessment to determine whether changes to the plan are required. This assessment may be done by tracking the number of interpreters requested by language in the courts, discussion with the Clerk of the Supreme Court and the trial court administrator for each administrative unit regarding the effectiveness of the plan, and consideration of any public comments received specifically in regard to the Language Access Plan or to interpreter services in general.

Elements of the assessment will include:

- Number of persons requesting language access services in North Dakota Courts;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand language access policies and procedures and how to carry them out; and
- To the extent possible, gathering feedback from communities around the state with a high rate of individuals requesting language access services.

As the plan is revised, it will be communicated to all court personnel, and an updated version of the plan will be posted on the court's website.

**Language Access Plan Contact**

Sally Holewa  
State Court Administrator  
600 E. Boulevard Ave.  
Bismarck, ND 58505-0530  
[sholewa@ndcourts.gov](mailto:sholewa@ndcourts.gov)  
Tel: 701-328-4216

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