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State of North Dakota

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SUPREME COURT

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JOINT PROCEDURE COMMITTEE

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IN THE OFFICE OF THE
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March 5, 2015

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STATE OF NORTH DAKOTA

Honorable Gerald W. VandeWalle, Chief Justice
North Dakota Supreme Court
600 East Boulevard Avenue
Bismarck, ND 58505-0530

Re: Proposed Amendments to N.D. Sup. Ct. Admin. R. 50; N.D.R.Civ.P. 43;
N.D.R.Crim.P. 28; and Trial Court Administration Policy 522

Dear Chief Justice:

State Court Administrator Sally Holewa, in consultation with the Supreme Court, developed a series of rule amendments related to interpreters. The amendments were designed to implement the changes to Rule 42 and Rule 28 that the Court made effective March 1, 2014. She requested that the Joint Procedure Committee review these amendments and provide comments and suggestions.

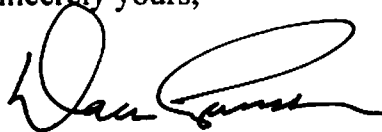
The committee discussed the proposed amendments at its September 2014 and January 2015 meetings. The committee understands that payment for interpreter services is a concern for the Court and that the proposed amendments reflect that concern. During the committee's discussion of the rule proposals in September, some members took the position that courtroom interpreter services should be provided by the court system in criminal and civil cases, without any reimbursement for these services by parties or other court participants. Others took the position that, in civil cases, interpreters had traditionally been paid by the parties and this should continue. One area of consensus was that witnesses should not have to pay for interpreter services and that if any reimbursement is to be sought for witness interpreters, it should be sought from the parties.

At the January meeting, the committee discussed modifications to the Administrator's

proposed rule amendments. Based on these discussions, the committee suggests that there be language in Admin. Rule 50 that would limit any reimbursement for courtroom interpreter services to parties in civil cases with the ability to pay, which is very similar to what the Administrator proposed. The committee suggests that the explanatory notes of Rule 43 and Rule 28 contain language warning of the possibility of reimbursement in civil cases and pointing to Admin. Rule 50 for details about payment for interpreter services.

Copies of the amendments proposed by the Administrator, with further proposed amendments by the Joint Procedure Committee, are attached. Thank you for referring this matter to the committee.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dale Sandstrom", with a large, stylized initial "D" and a long, sweeping underline.

Dale V. Sandstrom
Chair, Joint Procedure Committee

RULE 50. COURT INTERPRETER QUALIFICATIONS AND PROCEDURES

1 Section 1. Policy. The Judicial System's policy is to ensure that adequate
2 court interpreter services are provided for those persons who are unable to readily
3 understand or communicate in the English language because of a disability or a
4 non-English speaking background. This rule establishes court interpreter
5 qualifications and general procedures to assist in ensuring that effective interpreter
6 services are provided.

7 Section 2. Providing Interpreters.

8 A. Interpreter at No Cost. A limited English proficiency individual is one
9 whose first language is other than English and who has a limited ability to speak,
10 read, write or understand English. Interpreters will be provided at no cost to a
11 limited English proficiency individual or deaf individual under the following
12 circumstances:

13 1. for deaf or hearing impaired individuals who are a litigant or witness in
14 any type of case;

15 2. for limited English proficiency litigants and witnesses in criminal,
16 administrative traffic, or infraction cases;

17 3. for limited English proficiency litigants and witnesses in juvenile
18 hearings;

19 4. for limited English proficiency litigants and witnesses in Mental Health

20 cases under N.D.C.C. ch. 25-03.1;

21 5. for limited English proficiency litigants and witnesses in Sexually

22 Dangerous Commitment cases under N.D.C.C. ch. 25-03.3;

23 6. for limited English proficiency litigants and witnesses in Guardianship

24 cases under N.D.C.C. ch. 30.1-27 (minors) and 30.1-28 (incapacitated person);

25 7. for limited English proficiency litigants and witnesses in Conservatorship

26 cases under N.D.C.C. ch. 30.1-29;

27 8. for limited English proficiency litigants and witnesses in Domestic

28 Violence Protection Order cases under N.D.C.C. ch. 14-07.1;

29 9. for limited English proficiency litigants and witnesses in Disorderly

30 Conduct Restraining Order cases under N.D.C.C. § 12.1-31.2;

31 10. for limited English proficiency litigants and witnesses in Annulment of

32 Marriage cases under N.D.C.C. ch. 14-04;

33 11. for limited English proficiency litigants and witnesses in Divorce cases

34 under N.D.C.C. ch. 14-05.

35 B. Appointment under Rule. An interpreter will be appointed for a person

36 with limited English proficiency or a deaf person who does not qualify for a free

37 interpreter under Section 2 (A) but who meets the standards of N.D.R.Civ.P. 43 or

38 N.D.R.Crim.P. 28. A party in a civil case may be required to reimburse the court

39 for interpreter costs based upon ability to pay.

40 C. Payment for Agency Interpreters. Payment for interpreter services on

41 behalf of law enforcement, defense attorneys, prosecutors or corrections agents,
42 other than at court appearances, is the responsibility of the agency that requested
43 the services. Interpreter services required for evaluations, treatment, classes, or
44 other similar services is the responsibility of the agency providing the service.

45 D. Exclusions. Payment for interpreter services for discussions or meetings
46 with an attorney, depositions, discovery process, or other legal process outside of a
47 court appearance is the responsibility of the party requesting the service.

48 Section 2 3. Court Interpreter qualifications. Except as otherwise provided
49 in this rule, in order to provide court interpreter services in a judicial proceeding as
50 required by statute, rule, or order of the court, a person must have the following
51 qualifications:

52 A. If providing interpreter services for a person who is deaf or hearing
53 impaired, certification by the Registry of Interpreters for the Deaf, certification by
54 the National or North Dakota Association for the Deaf, or approval by the
55 superintendent for the state school for the deaf.

56 B. If providing interpreter services for a non-English speaking person,
57 certification by a recognized interpreter certification program in another
58 jurisdiction and presence on a statewide roster of interpreters, if any, maintained
59 by that jurisdiction.

60 Section 3 4. Qualifications Exception. If a court interpreter satisfying the
61 requirements of Section 2 3 is not available, a court may obtain the services of any

62 other interpreter whose actual qualifications have been determined by examination
63 or other appropriate means. For purposes of this section, "actual qualifications"
64 means the ability to readily communicate with a non-English speaking person and
65 orally transfer the meaning of statements to and from English and the language
66 spoken by the non-English speaking person, or the ability to interpret communicate
67 with a hearing-impaired or otherwise disabled person, the proceedings, and
68 accurately repeat and interpret the statements of the hearing-impaired or otherwise
69 disabled person.

70 Section 4 5. General Procedures -- Requirements.

71 A. Interpreter Oath. Before commencing duties, an interpreter shall take an
72 oath that the interpreter will make a true, complete, and impartial interpretation in
73 an understandable manner to the person requiring interpretation services and that
74 the interpreter will truly, completely, and impartially repeat the statements of the
75 person to the best of the interpreter's skills and judgment.

76 B. Conflicts of Interest - Bias. An interpreter shall disclose to the court any
77 actual or perceived conflicts of interest that may impair the interpreter's ability to
78 adequately interpret the proceedings. An interpreter shall be impartial and unbiased
79 and shall refrain from conduct that may give the appearance of bias.

80 C. Objection to Interpreter. An objection regarding any circumstances that
81 may render an interpreter unqualified to interpret in the proceeding must be made
82 in a timely manner. The court shall consider the objection and make a ruling on the

83 record.

84 D. Method of Interpretation. As the circumstances require, the court shall
85 consult with the interpreter and the parties regarding the method of interpretation
86 to be used to ensure that a complete and accurate interpretation of the testimony of
87 a witness or party is obtained.

88 E. Recording of Proceeding. The court on its own motion or on the motion
89 of a party may order that the testimony of the person for whom interpretation
90 services are provided and the interpretation be recorded for use in verifying the
91 official transcript of the proceeding. If an interpretation error is believed to have
92 occurred based on review of the recording, a party may file a motion requesting
93 that the court direct that the official transcript be amended.

94 F. Additional Interpreter. As circumstances may require, the court may
95 provide an additional interpreter to afford relief and reduce fatigue if the time
96 period of interpretation exceeds [2] continuous hours.

97 G. Removal of Interpreter. The court may remove an interpreter if the
98 interpreter:

99 (1) is unable to adequately interpret the proceedings;

100 (2) knowingly makes a false interpretation;

101 (3) knowingly discloses confidential or privileged information obtained
102 while serving as an interpreter;

103 (4) knowingly fails to disclose a conflict of interest that impairs the ability

104 to provide complete and accurate interpretation; or

105 (5) fails to appear as scheduled without good cause.

106 Section 5. Effective Date. This rule is effective March 1, 2005. This rule
107 was amended, effective _____.

RULE 43. EVIDENCE

1 (a) In Open Court. At trial, the witnesses' testimony must be taken in open
2 court unless a statute, the Rules of Evidence, these rules, or other court rules
3 provide otherwise. For good cause, or on agreement of the parties, and with
4 appropriate safeguards, the court may permit testimony in open court by
5 contemporaneous transmission from a different location. A party must give notice
6 if a witness is unable to testify orally or if testimony by contemporaneous
7 transmission may be necessary.

8 (b) Evidence on a Motion. When a motion relies on facts outside the record,
9 the court may hear the matter on affidavits or may hear it wholly or partly on oral
10 testimony or on depositions.

11 (c) Interpreter. If a person with limited English proficiency or a deaf person
12 is involved in a proceeding as a party, witness, person with legal decision-making
13 authority, or person with a significant legal interest in the matter, the court must
14 provide an interpreter.

EXPLANATORY NOTE

15 Rule 43 was amended, effective 1976; January 1, 1980; March 1, 1999;
16 March 1, 2011; March 1, 2014. The explanatory note was
17 amended_____.

18
19 Subdivision (a) was amended, effective March 1, 1999, to follow the 1996

20 federal amendment. See 1996 Advisory Committee Note, Fed.R.Civ.P. 43. The
21 requirement for testimony to be taken orally is deleted.

22 Former subdivision (b) on scope of examination and cross-examination was
23 deleted, effective March 1, 2011. These topics are covered in the Rules of
24 Evidence. The federal rule contains a subdivision entitled "Affirmation Instead of
25 an Oath." Affirmations and oaths are governed by N.D.R.Ct. 6.10 (Courtroom
26 Oaths).

27 Subdivision (c) on interpreters was added, effective March 1, 2014. It is
28 intended to reflect the American Bar Association Standards for Language Access
29 in Courts. N.D. Sup. Ct. Admin. R. 50 (Court Interpreter Qualifications and
30 Procedures) provides guidance on interpreter qualifications and requirements and
31 detailed information on payment for interpreter services. Under Admin. Rule 50, a
32 party in a civil case may be required to reimburse the court for interpreter costs
33 based upon ability to pay.

34 Rule 43 was amended, effective March 1, 2011, in response to the
35 December 1, 2007, revision of the Federal Rules of Civil Procedure. The language
36 and organization of the rule were changed to make the rule more easily understood
37 and to make style and terminology consistent throughout the rules.

38 Sources: Joint Procedure Committee Minutes of January 29-30,
39 pages _____; September 25-26, 2014, pages 20-24; April 25-26, 2013, pages 16-
40 18; January 31-February 1, 2013, pages 12-15; January 29-30, 2009, pages 34-35;

41 January 29-30, 1998, pages 11-13; September 25-26, 1997, pages 10-11;
42 November 29-30, 1979, page 16; April 26-27, 1979, pages 17-18; September 23-
43 24, 1976, page 79; June 3-4, 1976, pages 16-18; Fed.R.Civ.P. 43.

44 Statutes Affected:

45 Superseded: N.D.C.C. § 31-01-12.

46 Considered: ch. 28-33; N.D.C.C. § 31-01-11.

47 Cross Reference: N.D.R.Ev. 101 (Scope), N.D.R.Ev. 103 (Rules on
48 Evidence), N.D.R.Ev. 104 (Preliminary Questions), N.D.R.Ev. 603 (Oath or
49 Affirmation), N.D.R.Ev. 604 (Interpreters), N.D.R.Ev. 607 (Who May Impeach),
50 and N.D.R.Ev. 611 (Mode and Order of Interrogation and Presentation); N.D.R.Ct.
51 6.10 (Courtroom Oaths); N.D.Sup.Ct.Admin.R. 50 (Court Interpreter
52 Qualifications and Procedures).

RULE 28. INTERPRETERS

1 If a person with limited English proficiency or a deaf person is involved in a
2 proceeding as a defendant, witness, person with legal decision-making authority,
3 or person with a significant legal interest in the matter, the court must provide an
4 interpreter.

5 EXPLANATORY NOTE

6 Rule 28 was amended, effective March 1, 2006; March 1, 2014. The
7 explanatory note was amended.

8 Rule 28 was amended, effective March 1, 2014, to reflect the American Bar
9 Association Standards for Language Access in Courts.

10 Former subdivision (a) provided for the appointment of expert witnesses.
11 This provision was deleted, effective March 1, 2006, because N.D.R.Ev. 706
12 covers the topic of court-appointed expert witnesses in detail.

13 ~~Rule 28 is consistent with existing state law, N.D.C.C. § 31-01-11, which~~
14 ~~authorizes the court to appoint interpreters.~~ Rule 28 permits the court to appoint
15 interpreters in appropriate circumstances. The purpose of the rule is to assist non-
16 English-speaking or deaf defendants, witnesses, persons with legal decision-
17 making authority, or persons with a significant legal interest in the matter in
18 understanding the proceedings or in communicating with assigned counsel.

19 N.D. Sup. Ct. Admin. R. 50 (Court Interpreter Qualifications and

20 Procedures) provides guidance on interpreter qualifications and requirements and
21 detailed information on payment for interpreter services.

22 Rule 28 was amended, effective March 1, 2006, in response to the
23 December 1, 2002, revision of the Federal Rules of Criminal Procedure. The
24 language and organization of the rule were changed to make the rule more easily
25 understood and to make style and terminology consistent throughout the rules.

26 Sources: Joint Procedure Committee Minutes of January 29-30,
27 pages _____; September 25-26, 2014, pages 20-24; April 25-26, 2013, pages
28 16-18; January 31-February 1, 2013, pages 12-15; January 27-28, 2005, pages 22-
29 23; October 17-20, 1972, pages 32-33; February 20-21, 1969, pages 4-5;
30 Fed.R.Crim.P. 28.

31 Statutes Affected:

32 Superseded: N.D.C.C. § 31-01-11; 31-01-12.

33 Considered: N.D.C.C. §§ 28-26-06, ch. 28-33.

34 Cross References: N.D.R.Ev. 604 (Interpreters); N.D.R.Ev. 706 (Court
35 Appointed Experts); N.D.R.Ct. 6.10 (Courtroom Oaths); N.D. Sup. Ct. Admin. R.
36 50 (Court Interpreter Qualifications and Procedures).

TRIAL COURT ADMINISTRATION

Policy 522

January 20, 2011

LIMITED ENGLISH PROFICIENCY PLAN

I. LEGAL BASIS AND PURPOSE

This document serves as the plan for the North Dakota Court System to provide services to Limited English Proficiency individuals 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. A Limited English Proficiency individual is one whose first language is other than English and who has a limited ability to speak, read, write or understand English.

This Limited English Proficiency 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 interpreters in the same location.

II. NEEDS ASSESSMENT

A. Statewide

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

According to the United States Census Bureau which tracks language use and English ability, in the ~~2000 census~~ 2010 American Community Survey conducted by the Census Bureau, ~~6.3~~ 5.4 percent (or ~~37,976~~ 31,883 individuals) of the North Dakota population speaks a language other than English at home. Of that number, ~~81~~ 98.5% said they ~~speak~~ spoke English “very well” or “well”, while ~~1.5 %~~ or ~~3,550~~ 9,151 said they ~~speak~~ spoke English less than “very well-not well” or “not at all”. According to the same census, the most commonly spoken non-English languages in North Dakota are, in descending order of frequency:

1. ~~German (14,931)~~ Spanish (9,420)
2. ~~Spanish (8,263)~~ German (7,923)
3. ~~Scandinavian languages (3,193)~~ Other and Unspecified Languages (5,803)
4. ~~Native American languages (2,536)~~ Other Indo-European Languages (2,414)

5. ~~Other Slavic languages (1,350)~~ Slavic Languages (2,322)
6. ~~French (1,597)~~ Chinese (1,144)
7. ~~Serbo-Croatian (825)~~ Vietnamese (1,090)

Ninety-seven percent of North Dakota residents are U.S. born residents, and ~~72.5~~ 69.8% percent of North Dakota residents in the ~~2000~~ 2010 U.S. Census were born in North Dakota.

B. North Dakota Court System

The North Dakota Court System will make every effort to provide service to all Limited English Proficiency individuals. However, the following list shows the ~~foreign~~ languages that are most frequently ~~encountered~~ interpreted in the court.

- Spanish
- Somali
- Bosnian
- ~~French~~ Sign Language
- ~~Arabic~~ Vietnamese

This information on actual use of interpreters is based on data ~~through September 2009~~ collected from the North Dakota District Court ~~'s actual usage of interpreters for the period of January 2012 through December 2013.~~

III. LANGUAGE ASSISTANCE RESOURCES

A. Interpreters Used in the Courtroom

~~By North Dakota statute, "when a witness does not understand the English language or speak the English language, or is deaf or unable to talk, an interpreter must be sworn to interpret for the witness (N.D.C.C. § 31-01-11).~~

~~North Dakota Rules of Court for Criminal Procedures, Rule 28(b), provides, "The court may appoint an interpreter of its own selection and may fix the reasonable compensation for such interpreter. The court may direct that such compensation be paid out of such funds as may be provided by law."~~

North Dakota Rule of Civil Procedure 43(c) 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.”

Interpreters Administrative Rule 50 lists when interpreters will be provided at no cost to a Limited English Proficiency individual or deaf individual under the following circumstances:

- ~~• For deaf or hearing impaired individuals who are a litigant or witness in any type of case~~
- ~~• For Limited English Proficiency litigants and witnesses in criminal, administrative traffic, or infraction cases~~
- ~~• For Limited English Proficiency litigants and witnesses in juvenile hearings~~
- ~~• For Limited English Proficiency litigants and witnesses in Mental Health cases under N.D.C.C. ch. 25-03.1~~
- ~~• For Limited English Proficiency litigants and witnesses in Sexually Dangerous Commitment cases under N.D.C.C. ch. 25-03.3~~
- ~~• For Limited English Proficiency litigants and witnesses in Guardianship cases under N.D.C.C. ch. 30.1-27 (minors) and 30.1-28 (incapacitated person)~~
- ~~• For Limited English Proficiency litigants and witnesses in Conservatorship cases under N.D.C.C. ch. 30.1-29~~
- ~~• For Limited English Proficiency litigants and witnesses in Domestic Violence Protection Order cases under N.D.C.C. ch. 14-07.1~~
- ~~• For Limited English Proficiency litigants and witnesses in Disorderly Conduct Restraining Order cases under N.D.C.C. § 12.1-31.2~~
- ~~• For Limited English Proficiency litigants and witnesses in Annulment of Marriage cases under N.D.C.C. ch. 14-04~~
- ~~• For Limited English Proficiency litigants and witnesses in Divorce cases under N.D.C.C. ch. 14-05~~

~~An interpreter may be appointed, at cost to a litigant or witness, in any other court proceeding in which it is determined that an interpreter is necessary for the effective administration of justice.~~

~~Payment for interpreter services on behalf of law enforcement, defense attorneys, prosecutors or corrections agents, other than at court appearances, is the responsibility of the agency that requested the services. Interpreter services required for evaluations, treatment, classes, or other similar services is the responsibility of the agency providing the service.~~

1. Determining the Need for an Interpreter in the Courtroom

There are various ways that the North Dakota Court System will determine whether a Limited English Proficiency court customer needs an interpreter for a court hearing. First, the Limited English Proficiency 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 the court proceeding. 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, outside agencies such as probation, attorneys, social workers or law enforcement may notify the court about a Limited English Proficiency 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.”

In the past ~~the~~ East Central Judicial District ~~provided~~s an introductory two-day training session for court interpreters, which includes an overview of the court system, court processes, and legal terminology. Participants learned about the role of the interpreter and how to best handle interpreter cases.

The North Dakota Court System ~~does not~~ now maintains a statewide roster of interpreters which is available through our public website. ~~Instead each administrative unit is required to maintain an Interpreter Resource List.~~

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 (ITV) or telephone as an alternative means of providing interpreter services. If an interpreter cannot be located, the court may use a commercial, telephone-based interpreter service to facilitate communication with the Limited English Proficiency individual.

Bilingual court staff do not serve as court interpreters, however they may be asked to assist in securing an interpreter or to assist on a limited basis if a Limited English Proficiency individual contacts the court in person or on the telephone and asks for immediate assistance in asking about or 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 or on the court’s website, located at: www.ndcourts.gov/resources.

B. Spoken Language Services Outside the Courtroom

The North Dakota Court System is also responsible for taking reasonable steps to ensure that Limited English Proficiency 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 Limited English Proficiency individuals without an interpreter. Limited English Proficiency individuals may come in contact with court personnel via the phone, counter or other means. To that end, the North Dakota Court System has the following resources to help court staff communicate with Limited English Proficiency and deaf individuals:

- Interpreter services through International Translation Services in Moorhead, Minnesota
- Spanish Hotline (612) 596-9275 in Minnesota
- Somali Translation and Interpreter Services (612) 644-7600 in Minnesota
- Commercial Telephone Interpreter Services
- “I need an Interpreter” cards in the five 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 Limited English Proficiency individuals. 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> for internal use.

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

IV. TRAINING

The North Dakota Court System is committed to providing Limited English Proficiency training opportunities for all employees who come in contact with Limited English Proficiency individuals.

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.

Court Conferences

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

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 working with limited English speaking individuals. 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 LIMITED ENGLISH PROFICIENCY PLAN

A. Limited English Proficiency Plan Approval and Notification

The North Dakota Court System Limited English Proficiency 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 intranet.

B. Biennial Evaluation of the Limited English Proficiency Plan

The North Dakota Court System will conduct a biennial needs assessment to determine whether changes to the Limited English Proficiency 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 Limited English Proficiency Plan or to interpreter services in general.

Elements of the assessment will include:

- Number of Limited English Proficiency persons requesting court interpreters 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 Limited English Proficiency policies and procedures and how to carry them out; and
- To the extent possible, gathering feedback from Limited English Proficiency communities around the state.

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 intranet.

Limited English Proficiency Plan Contact

Sally Holewa
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