

**MANAGEMENT PLAN
FOR COURT REPORTING
AND RECORDING SERVICES**



**FOR THE
EASTERN DISTRICT OF WASHINGTON**

**Adopted by the Court
on May 19, 2020**

**Approved by the Ninth Circuit Judicial
Council on July 20, 2020**

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MANAGEMENT PLAN FOR COURT REPORTING AND RECORDING SERVICES

I. Adoption and Applicability

This Plan, for the effective utilization of court reporters/recorders in the Eastern District of Washington, is applicable to all reporters/recorders employed by the Court. The Plan was adopted by this Court on May 19, 2020 and approved by the Ninth Circuit Judicial Council on July 20, 2020.

II. Court Reporters' Statutory Duties

A. Court reporters' duties and conditions of employment are primarily determined by [28 U.S.C. § 753](#), the Judicial Conference, and the Court. [Guide to Judiciary Policy, Vol. 6, § 120 and § 290.20](#).

B. As a condition of employment, a court reporter must:

- 1) Attend and record verbatim by shorthand or mechanical means such Court sessions or other proceedings, as specified by statute, rule, or order of the Court;
- 2) Promptly transcribe and certify such parts of the record of proceedings as may be required by any rule, order or direction of the judge or Court, including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording. Original records, transcripts or sound recordings so taken shall be certified by the court reporter and filed with the clerk at no charge to the Court;
- 3) Promptly transcribe the proceedings requested by a party who has agreed to pay the fees established by the Judicial Conference;

- 4) Certify and file transcripts and notes pursuant to the [Guide to Judiciary Policy, Vol. 6, § 290.20.30](#); and
- 5) Perform administrative duties pursuant to the [Guide to Judiciary Policy, Vol. 6, § 290.20. 50](#).

C. Court reporters/recorders employed by the Court shall adhere to the requirements established by, and perform their duties in accordance with statute, Judicial Conference Policy, the Judicial Code of Conduct, the *Guide to Judiciary Policy*, *WAED Personnel Manual for Clerk's Office and Court Reporters*, orders of this Court, and this Plan.

III. Appointment and Elements of Employment

A. Court reporters shall be appointed in accordance with the provisions of [28 U.S.C. § 753\(a\)](#), the policies and procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States.

B. Court reporters are employed by the Court *en banc* and shall retain employment at the will of the Court *en banc* pursuant to Judicial Conference Policy. [Guide to Judiciary Policy, Vol. 6, § 220\(b\)](#).

C. All initial appointments of court reporters will be on a probationary basis. [Guide to Judiciary Policy, Vol. 6, § 220.50\(a\)](#)

WAED Structure/Requirements:

1) All initial court reporter appointments shall be on a probationary basis for a period of one year.

D. The Chief Judge of the Eastern District of Washington is responsible for the management and supervision of court reporting/recording services. The Chief Judge delegates responsibility for supervision, oversight, management and administration of court reporter/recording services to the Clerk. This delegation is inclusive of responsibility for enforcement of statutory, court policy and national

policy requirements upon court reporters/recorders. The Clerk may delegate some or all of these responsibilities to the Chief Deputy Clerk of Court. The Clerk shall maintain a detailed listing of the duties and responsibilities inherent through this delegation in the [*Eastern District of Washington Court Reporter Manual*](#).

E. Court reporters/recorders shall be subject to governance through the [*WAED Personnel Manual for Clerk's Office and Court Reporters*](#).

IV. Court Reporters/Recorders Are Assigned a Regular Tour of Duty

A. Full-time court reporters/recorders are placed on a “regular tour of duty” (8:00 a.m. to 5:00 p.m., Monday through Friday) effective February 1, 1992, and are permitted to earn annual and sick leave pursuant to the Leave Act, [5 U.S.C., Chapter 63](#).

B. Part-time court reporters/recorders are placed on a regular tour of duty consisting of a pre-specified number of work hours per week, responsive to the needs of the Court. These position are also permitted to earn annual and sick leave pursuant to the Leave Act, [5 U.S.C., Chapter 63](#).

C. Court reporters/recorders are governed by the leave regulations contained in the [*Guide to Judiciary Policy, Vol. 12, Ch. 9, Leave and Attendance*](#).

WAED Structure/Requirements:

Leave records for official staff court reporters shall be maintained by the Clerk of Court in the same manner as those of deputy clerks. Annual leave shall only be taken at times approved by the Chief Deputy Clerk of Court, the Clerk or by the Chief Judge. All requests for leave shall be submitted in accordance with the [*WAED Personnel Manual for Clerk's Office and Court Reporters*](#).

V. Retention and Separation of Fully Qualified Court Reporters

A. Pursuant to the [*Guide to Judiciary Policy, Vol. 6, § 220.60*](#), the Court shall, when possible, give a reasonable notice of termination when said termination

is necessary to reduce the reporting staff due to reduced workload. The Court will attempt first to accomplish this reduction through relocation or attrition.

B. Competence may be the primary consideration in deciding which reporters are to be retained. There is no requirement that a Court give preference to a reporter with seniority.

WAED Structure/Requirements:

C. Court reporters who do not perform in a competent and satisfactory manner or do not comply with requirements of this Plan shall be subject to dismissal.

D. Whenever a court reporter is separated (resigns, retires or is dismissed) he or she will be required to meet with the Clerk or his/her designee to properly “out-process” the court unit, to include the preparation and execution of a certification form regarding his/her responsibilities for:

- 1) The filing of all official notes and audio recordings; and
- 2) The preparation of all transcripts which are currently ordered but not yet filed or which might be ordered after separation.

E. Upon separation, an official staff court reporter shall also file the most recent copy of his or her dictionary with the Court. In the event a separated court reporter may be unavailable to produce transcripts upon request (due to illness, death, or the Court’s decision not to refer transcript orders to that reporter), the dictionary will be used to assist another court reporter or transcriber with translating the original reporter’s notes.

VI. Court Reporters/Recorders Required to Cover all of the Court’s Reporting Needs

A. The number of reporters assigned to the Court shall be determined by the Judicial Conference of the United States, [28 U.S.C. § 753\(a\)](#). Reporting

resources are allocated based on the number of active district judges and the activity of senior judges, these resources are assigned to the entire Court. [Guide to Judiciary Policy, Vol. 6, § 280.](#)

B. As a general rule, electronic sound recording equipment should be used to record proceedings conducted before a magistrate judge. Where the magistrate judge determines a court reporter is required by specific rule or statute, or by the particular circumstances of an individual case, the Chief Deputy Clerk of Court or his/her designee should assign one of the official staff court reporters. [Guide to Judiciary Policy, Vol. 6, § 410\(b\).](#)

VII. Equitable Distribution of Work Among Court Reporters

A. The Court shall maintain efficient and cost-effective procedures that will provide for the recording of all proceedings required by law, without delaying the proceedings, and in such a manner that transcripts requested are delivered within the time and cost requirements of the Judicial Conference. [Guide to Judiciary Policy, Vol. 6, §290.30.10.](#)

WAED Structure/Requirements:

B. In order to ensure (1) an equitable distribution of work among court reporters and recorders; and (2) the Court's reporting service needs are met, court reporters/recorders are pooled and assigned to courtroom duties by the Chief Deputy Clerk of Court or his/her designee. The Chief Deputy Clerk of Court or his/her designee shall ensure that, to the greatest extent possible, each reporter/recorder works an equal number of hours in court. Assignments shall be made to maximize utilization of a court reporter/recorder in his/her official duty station and minimize out-of-district and intra-district travel.

C. During a court reporter/recorder's regular tour of duty, he/she may be required to report/record in court, in chambers, video conference, telephonic

proceedings, and judge investiture ceremonies, and any other ceremonies over which a judge presides that are considered court proceedings, prepare transcripts and required reports, and any case administration or quality control (operations support) necessary to support the mission of the Court.

VIII. Minimizing Travel of Official Staff / Contract Court Reporters

A. Court reporter travel is governed by the [Guide to Judiciary Policy, Vol. 6, § 270](#) and [Guide to Judiciary Policy, Vol. 19, Chapter 4, Judiciary Staff Travel Regulations](#).

B. A contract court reporter may be authorized to travel under the same circumstances as official staff reporters; however their travel expenses are paid or reimbursed for travel expenses to the extent provided in the contract. [Guide to Judiciary Policy, Vol. 6, § 270.40](#).

C. Official staff court reporters have been assigned to each of the court locations in the Eastern District of Washington. This results in cost containment for official staff court reporter travel, contract court reporter hiring, and contract court reporter travel. The Chief Deputy Clerk of Court will conduct a cost comparison between authorizing official staff court reporter travel to alternate court points within the district and hiring a contract court reporter, and will select the option of least cost.

IX. Delineating the Need for Contract Court Reporter Service

A. Contract reporters serve the Court under a contract as provided under [28 U.S.C. § 753\(g\)](#), under delegation procurement authority from the Director of the Administrative Office. [Guide to Judiciary Policy, Vol. 6, § 450.10](#).

B. Prior to employing contract court reporters, the Court shall make every effort to fully utilize its official reporting staff. Through scheduling, the use of temporary or contractual services is to be minimized to every extent practicable.

[Guide to Judiciary Policy, Vol. 6, § 450.20.10\(b\).](#)

C. Reporting services for senior judges shall be provided through a combination of official court reporters and contract reporting services.

WAED Structure/Requirements:

D. Contract/freelance reporters may be utilized in the place of official staff reporters on authorized leave pursuant to the terms of the Leave Act when no official staff reporter is available to replace the reporter on such leave.

X. Court Reporters Engaging in Private Reporting Work

Pursuant to Judicial Conference Policy ([JCUS-MAR 83](#)), whenever there is a conflict between official and private reporting work, the court reporter must postpone private reporting work. All private reporting activities must be approved by the Court.

XI. Supervision of the Relationship Between Parties and Court Reporters

A. The Chief Deputy Clerk of Court or his/her designee must monitor all orders for transcripts and the relationship between court reporters and those requesting transcripts. [Guide to Judiciary Policy, Vol. 6, § 510.35\(c\).](#)

B. Court reporters, in dealing with parties requesting transcripts, must maintain a professional relationship and provide timely quality service. [Guide to Judiciary Policy, Vol. 6, § 510.35\(a\).](#)

C. Court reporters must promptly transcribe the proceedings requested by a judicial officer or a party who has agreed to pay the fees established by the Judicial Conference and any proceedings that a judge or the Court may direct.

XII. Procedures for Accepting Transcript Orders, Delivery, and Billing

A. In their dealings with parties requesting transcripts, court reporters/recorders are governed by and shall perform the responsibilities outlined

in the [Guide to Judiciary Policy, Vol. 6, Ch. 5.](#)

B. Transcripts may be sold via electronic media in PDF, American Standard Code for Information Interchange (ASCII) format, or other format requested by the ordering party and agreed to by the court reporter or transcriber, whether they represent originals, first copies, or additional copies. Court reporters and transcribers must produce paper originals and paper copies at the Judicial Conference rates when ordered by parties. [Guide to Judiciary Policy, Vol. 6, § 510.30.](#)

C. Court reporters shall not charge fees for transcripts of official proceedings which exceed those recommended by the Judicial Conference of the United States.

WAED Structure/Requirements:

D. Pursuant to the [Guide to Judiciary Policy, Vol. 6, § 530.10](#), the Eastern District of Washington hereby adopts the transcript fee schedule established by Judicial Conference. **See:** [Current maximum transcript rates](#)

E. Requests made to court reporters for transcripts to be prepared, either from steno-reported proceedings or from audio recordings, from parties outside of the court employment shall be in writing/email. Requests to court reporters for transcript preparations made by judges and court staff may be made telephonically/orally.

XIII. Delivery and Filing of the Transcript

A. Court reporters must file with the Clerk of Court, for the record of the Court, an original copy of all transcripts prepared. Official staff court reporters will docket the transcript directly into the Court docket using the Court's CM/ECF filing system. Contract court reporters will submit via email to the Clerk's Office for docketing into the court record. [Guide to Judiciary Policy, Vol. 6, § 290.20.20\(b\).](#)

- 1) Official staff court reporters shall file a certified transcript into the Court's CM/ECF filing system no later than three working days after delivery to the requesting party. [Guide to Judiciary Policy, Vol. 6, § 290.20.20.](#)
- 2) When a contract court reporter produces a transcript, at the request of a party or a judge, the contract reporter must concurrently deliver a copy to the Clerk of Court at no charge. [Guide to Judiciary Policy, Vol. 6, § 510.25\(a\)\(2\).](#) **WAED Structure/Requirements:**

B. A schedule of the prescribed fees shall be posted on the Court's public website. Transcripts not delivered within the specified time periods prescribed by the Court are subject to the late delivery of transcripts fee reduction policy established by the Judicial Conference of the United States. [\(JCUS-Mar 82, p.10\)](#)

C. The Chief Deputy Clerk of Court shall collect and review a random sampling of transcripts throughout the calendar year to audit transcript quality and timeliness in accordance with [The Eastern District of Washington Court Reporter Manual.](#)

XIV. Avoidance of Transcript Backlogs and Assuring Prompt Delivery of Transcripts

A. Cases appealed to the United States Court of Appeal require the timely transmission of the record from the lower Court. [Guide to Judiciary Policy, Vol. 6, § 540.](#)

B. A district judge or the chief judge of a circuit may appoint a substitute reporter in the event a court reporter is unable to complete transcripts in a timely fashion. In addition, the court may direct a court reporter who is unable to complete transcripts on time to hire a substitute at the reporter's expense to record

proceedings while the reporter works on the backlog of transcripts. [Guide to Judiciary Policy, Vol. 6, § 440.60\(a\)](#).

C. Substitute reporters shall be employed to service the requirements of the district judge where the official staff court reporter is unable to complete his [or her] transcripts in a timely fashion and the salary of the official staff reporter is subject to withholdings not to exceed the sum necessary to compensate the substitute reporter until the transcripts are current. [Guide to Judiciary Policy, Vol. 6, § 440.60 \(b\)](#).

WAED Structure/Requirements:

D. A court reporter shall not use substitute reporters without the prior approval of the Clerk or his/her designee and must obtain advance approval from the Chief Deputy Clerk of Court prior to hiring a substitute reporter.

E. This provision does not prohibit other official staff reporters from assisting in producing such transcripts if there are no other proceedings to report and when no transcript backlog will result for the court reporter(s) providing assistance.

XV. Prohibiting Accelerated Transcript Costs

Routine apportionment of accelerated transcript costs among parties in Criminal Justice Act (CJA) cases is prohibited. Recognizing that there are some circumstances in which such transcript services are necessary and required by either the prosecution or the defense, or both, accelerated transcript services may be provided, and in those cases the party from whom the request or order emanates shall pay for the original, and if the requesting or ordering party is other than defense counsel appointed under the Criminal Justice Act, the CJA counsel shall be entitled to a copy at the copy rate. [Guide to Judiciary Policy, Vol. 7A, §320.30.20](#) and Judicial Conference Policy [\(JCUS-SEP 86\)](#).

XVI. Timely Submission of Records and Reports

A. As part of their salaried tasks, all official staff court reporters must complete Form AO40A, *Attendance and Transcripts of U.S. Court Reporters*, quarterly and Form AO40B, *Statement of Earnings of U.S. Court Reporters*, yearly, and submit the completed forms to the Chief Deputy Clerk of Court or his/her designee for review and signature. These forms shall be reviewed by the Clerk or his/her designee to ensure that the information is complete and accurate prior to submission to the Administrative Office of the US Courts. If these reports are not submitted within the time limitations set by the Judicial Conference [Guide to Judiciary Policy, Vol. 6, § 290.40](#), *Records and Reports*, the Conference has authorized the Administrative Office to withhold court reporter salary payments. [JCUS-MAR 71](#), p. 28.

B. To complete Form AO40A and Form AO40B, official staff court reporters must maintain accurate and auditable records. For the purpose of completing the required forms, the following information (forms) must be completed and maintained. [Guide to Judiciary Policy, Vol. 6, § 290.40.60](#)

- C. AO37 Expense Ledger;
- D. AO38 Attendance Ledger;
- E. AO39 Pending Transcript Report, and
- F. AO44 Invoice.

WAED Structure/Requirements:

All monthly court reporter reports and records shall be filed pursuant to the guidelines and timelines established and maintained in the [Eastern District of Washington Court Reporter Manual](#).

XVII. Electronic Sound Recording System Storage

- A. Pursuant to the [Guide to Judiciary Policy, Vol. 6, § 350.40](#), the Clerk

of Court is responsible for the efficient and effective functioning of electronic sound recording systems.

WAED Structure/Requirements:

B. Court recorders shall upload audio files created under a unique user ID and Password to the Court’s secure server at the close of each business day.

C. The Chief Deputy Clerk of Court or his/her designee shall serve as the official administrator of the Court’s secure server and as such shall be responsible for the timely retrieval and delivery of audio recordings deposited and stored thereon in response to requests made by the Court or a party.

D. The Chief Deputy Clerk of Court or his/her designee shall arrange for the copying or transcription of audio recordings, in full or in part, as may be requested/directed by the Court or a party. Audio recordings shall be transcribed by official staff court reporters and/or transcription services.

E. The Chief Deputy Clerk of Court or his/her designee shall monitor audio transcript production, formatting, and fees.

XVIII. Provision of Judicial Data Communications Network (DCN) Access to Staff Court Reporters

Access to the Data Communications Network (DCN) must be through government-owned equipment. [*Guide to Judiciary Policy, Vol. 6, § 260.45.*](#)

XIX. Provision of Realtime Court Reporting

Realtime technical standards and guidelines governing the implementation and use of Realtime reporting systems have been developed and are set out in [*Guide to Judiciary Policy, Vol. 6, § 320.*](#)

For purposes of this Plan, “Realtime” includes the following services:

- The instantaneous and unedited transcription of the proceedings

delivered with appended notes electronically onto a computer monitor during or immediately following the proceedings; and

- The ability for recipients to scroll forward and backward, search the record for key words or phrases and mark portions of the text using viewer/annotation software.

WAED Structure/Requirements:

A. Only official staff court reporters who have successfully completed the National Court Reporter Association (NCRA) Certified Realtime Reporter (CRR) examination or who have passed an equivalent qualifying examination are recognized as federal certified realtime reporters and are thereby permitted, but not required, to sell realtime transcription.

B. When realtime services are requested by a party to the case, the Chief Deputy Clerk of Court or his/her designee shall assign the properly qualified court reporter to the proceeding. The assigned certified realtime reporter may charge and collect the per page rate for the realtime unedited transcription.

C. Official certified realtime court reporters shall offer comparable services to all parties to the proceeding.

D. Certified realtime reporters may not provide realtime services to anyone who is not a party to the case without prior approval of the presiding judge.

E. Realtime unedited transcription may not be used for any purpose that requires a certified transcript of a proceeding.

F. The Chief Deputy Clerk of Court or his/her designee shall monitor realtime transcript production and billing pursuant to the established guidelines.

G. All parties requesting realtime services will be responsible for providing their own computers, viewer/annotation software, and monitors. Upon the request of the parties, reporters may make equipment and software available. The certified realtime reporter will provide wiring necessary for his or her

equipment. The Court's IT department shall maintain realtime feeds to Court personnel. [Guide to Judiciary Policy, Vol. 6, § 320.70.50.](#)

APPROVED this 19th Day of May, 2020.

THOMAS O. RICE
Chief United States District Judge

ROSANNA MALOUF PETERSON
United States District Judge

STANLEY A. BASTIAN
United States District Judge

SALVADOR MENDOZA JR.
United States District Judge

WM. FREMMING NIELSEN
Senior United States District Judge

FRED VAN SICKLE
Senior United States District Judge

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EDWARD F. SHEA
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