

U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Transcript Policy

I. Summary

- (1) A transcript provided to a court by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days after it is delivered to the clerk.
- (2) During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference, the transcript will be available within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.
- (3) After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for download from the court's CM/ECF system through the judiciary's PACER system.

Transcripts must be compliant with Federal Privacy Rules, Civ. 5.2 and Crim. 49.1.

Under 28 U.S.C. § 753(b), the court reporter or transcriber must deliver promptly a certified copy of any transcript made to the clerk of court for the records of the court. The Notice of Electronic Filing (NEF) informs parties and attorneys of record of the 90-day restriction and how to obtain the transcript during the restriction period. The date when the transcript is submitted is the starting point for all deadlines related to the transcript.¹

¹Note: the special redaction procedures for transcripts and the 90-day restriction policy apply only to transcripts of federal courtroom proceedings.

During the 90-day period (which may be extended by the court), access to the transcript in CM/ECF is restricted to four types of users:

- court staff;
- public terminal users;
- attorneys of record or parties who have purchased the transcript from the court reporter/transcriber; and
- other persons as directed by the court, e.g., appellate attorneys.

Except for public terminal viewers, persons authorized to view or download the transcript can also create hyperlinks to the transcript.

II. Overview of the Process within CM/ECF

The clerk will enter a Notice of Filing of Official Transcript when a transcript is delivered to the clerk for the court's record. Or, upon completing the transcript, the court reporter may docket the Notice of Filing of Official Transcript. This notice includes language that indicates that parties have 7 business days to file with the court a Notice of Intent to Request Redaction of this transcript. This notice is transmitted to the parties via the NEF. Redaction responsibilities apply to the attorneys even if the requestor of the transcript is a judge or a member of the public/media.

Any party needing to review the transcript for redaction purposes may purchase a copy from the court reporter/transcriber or view the transcript at the courthouse using the public terminal to CM/ECF. If a party purchases the transcript from the court reporter, and he or she is an attorney on the case, he or she will be given remote access to the transcript via CM/ECF and PACER. This access is provided via a utility program in CM/ECF. PACER fees apply at all times when accessing transcripts remotely.

The clerk's office will grant the access upon notification from the court reporter that payment was received.

Redaction of Electronic Transcripts of Court Proceedings

Redaction responsibilities for attorneys in the case and self-represented parties are outlined in the *Judicial Conference Policy on Privacy and Public Access to Electronic Case Files*, Sec. II.

<http://www.uscourts.gov/rules-policies/judiciary-policies/privacy-policy-electronic-case-files>

III. General Issues

1. Purchase of the Transcript by the Public/Media

Members of the public, including the news media, who purchase a transcript from the court reporter within the 90-day restriction period, will not be granted remote electronic access during the restriction period. At the end of the restriction period, the public will be provided remote electronic access to the redacted transcript, or, if no redaction was done, to the transcript originally submitted, unless it was under seal.

2. Miscellaneous Issues

If only part of the transcript is ordered, an attorney is not responsible for ordering and reviewing other parts of the proceedings.

Court reporters/transcribers are not responsible for the identification of the need for or redaction of the transcripts. Redaction will be accomplished only with input from the attorneys who represent the parties in the case. Attorneys are required to list the information to be redacted by page and line number, which will reduce the work and errors on the part of the court reporter/transcriber.

The redaction-related documents (e.g., notice of intent to redact, etc.) should be in the court record to ensure that the changes to the transcript are documented and are available both to

the court in which the transcript was created and the appellate court (for potential orders regarding any delay).

There is no obligation on the part of the clerk's office to perform any redaction. Instead, it rests on the attorneys to tell the court reporter where to redact, and on the court reporter to perform the redaction.