

The Idaho Supreme Court is soliciting public comment concerning the court rules that permit a party to disqualify an assigned judge without cause: Idaho Criminal Rule 25(a), Idaho Rule of Civil Procedure 40(a), and Idaho Rule of Family Law Procedure 109(a).

As a result of the coronavirus pandemic, the Court suspended the rules between April 2020–April 2023. All seven of Idaho’s Administrative District Judges (ADJs) have requested that this Court permanently repeal the rules because they found that operating without the rules improved and promoted the administration of justice. The specific benefits identified by the ADJs are summarized below:

Administration of Justice Benefits	Promotion of Justice Benefits
<u>Reduces scheduling and travel challenges, especially in rural counties.</u> Judges and their staff can spend significant time traveling to cover matters for disqualified judges, especially in more rural and distant counties. The additional travel costs are borne by taxpayers.	<u>Reduces the perception that justice differs depending on the judge.</u> Disqualification without cause can create the impression that cases are decided according to the judge’s personal preferences rather than the law.
<u>Assists with identifying and resolving training and performance management issues.</u> When judges are disqualified without cause, that reduces complaints to the ADJ and the Idaho Judicial Council. Which in turn delays training, performance management, or discipline that could alleviate the issue.	<u>Promotes appellate review of disputed legal issue.</u> Regularly disqualifying a judge because of how the judge decides a particular issue prevents that issue from being addressed and resolved on appeal. This prevents lawyers and judges from properly advising their clients and applying the law.
<u>Maintains equitable caseloads.</u> When a judge is disqualified, another judge has to pick up the case. Odyssey does not automatically rebalance caseloads and it falls on the ADJ to do that rebalancing to ensure some judges are not overloaded while others have a lighter caseload.	<u>Permits citizens to have their legal disputes resolved by the judges they elected.</u> Disqualification without cause can prevent the opposing party from having the judge he elected decide his case; nullifying the will of the voters.
<u>Assists in the timely resolution of cases.</u> Cases move through the system more quickly because they are not waiting for reassignment or waiting until another judge has time to travel from another county.	<u>Eliminates blanket disqualifications for purely personal reasons.</u> The justice system can be viewed with distrust if a party or his lawyer can prevent a judge from sitting on the case for purely personal reasons such as wanting to have motion days on Tuesdays instead of Mondays.
<u>Interferes with vertical representation in criminal cases.</u> Disqualification without cause requires attorney teams assigned to a particular judge to try to balance appearances between different judges or reassign the defendant’s case.	<u>Fosters an independent and impartial judiciary.</u> Judges may feel inhibited in their decision-making if they are worried about being repeatedly disqualified for making a particular decision.

The Court is reexamining the rules to assess whether they strike the appropriate balance between protecting the rights of litigants and ensuring the timely, fair and impartial resolution of cases. Having received comments from the ADJs, the Court now seeks any responses, comments, or suggestions that the Bar and judges may wish to provide. **Members of the Bar may provide this feedback anonymously through [this survey link](#).**

You have until Friday, Aug. 4, to provide your feedback, at which point the Court will close the link. All comments will be shared with the Court for its consideration. This survey and its comment fields are designed to capture the necessary information for the Court’s decision. If desired, formal correspondence on this topic can be sent to surveys@idcourts.net.