

Language Access Statute Cheat Sheet

- [Texas Government Code, Ch. 57](#) –
 - **Subchapter A** addresses appointment of court interpreters upon a party's motion, a witness' request, or the court's own motion.
 - **57.001(7)** defines court proceedings to include an arraignment, deposition, mediation, court-ordered arbitration, or other form of alternative dispute resolution.
 - **57.002** describes when a court must use a licensed use a licensed or certified interpreter, when they can use an unlicensed or uncertified one, and what criteria an unlicensed or uncertified interpreter must meet.
 - **Subchapter B** establishes the program for certifying court interpreters for deaf individuals at the Department of Assistive and Rehabilitative Services.
- [Texas Government Code, Ch. 157](#) - Establishes the program for licensing court interpreters for spoken languages at the Judicial Branch Certification Commission.
- [Texas Civil Practice and Remedies Code](#) - **Chapter 21** addresses interpreters for signed and spoken languages.
 - SUBCHAPTER A. INTERPRETERS FOR THE DEAF
 - SUBCHAPTER B. SPANISH LANGUAGE INTERPRETERS IN CERTAIN BORDER COUNTIES
 - SUBCHAPTER C. INTERPRETERS FOR COUNTY COURTS AT LAW
 - SUBCHAPTER D. INTERPRETER FEE
- [Texas Rules of Civil Procedure](#) - **Rule 183** addresses appointment and compensation of an interpreter.

“The court may appoint an interpreter of its own selection and may fix the interpreter's reasonable compensation. The compensation shall be paid out of funds provided by law or by one or more of the parties as the court may direct, and may be taxed ultimately as costs, in the discretion of the court.”
- [Texas Rules of Evidence](#) - **Rule 604** states, "An interpreter must be qualified and must give an oath or affirmation to make a true translation."
- [Texas Code of Criminal Procedure, Art. 38.30](#) - Addresses appointment of an interpreter in a criminal proceeding when a person charged or a witness does not understand and speak English.
- [Texas Code of Criminal Procedure, Art. 38.31](#) - Addresses appointment of an interpreter in a criminal case when a defendant or witness is deaf.
- [28 C.F.R. Part 35, §35.160](#) –Requires a public entity to take steps to ensure that communication with members of the public with disabilities are as effective as communications with others.
- [Texas Attorney General Opinion No. JC-0584](#) (2002) re the relationship between TRCP 183 and Chapter 57.

DOJ Guidance and Position:

- [2010 Letter from the Department of Justice Civil Rights Division to all Chief Justices and State Court Administrators](#)
 - DOJ expects that, when meaningful access requires interpretation, courts will provide interpreters at no cost to the persons involved.
- [67 Fed. Reg.](#)
 - **At 41461**: Competent interpretation should be provided; competency requires more than just self-identification as bilingual. Strong encouragement to use formally licensed or certified interpreters in court proceedings.

- **At 41462:** use of informal interpreters “in place of or as a supplement to the free language services expressly offered” should not be relied on because in many circumstances, they are “not competent to provide quality and accurate interpretations” when credibility and accuracy are important to protect a person’s rights.
- **At 41459, n. 5:** “As used in this guidance, the word “court” or “courts” includes administrative adjudicatory systems or administrative hearings”
- **At 41464:** The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:
 - (a) The DOJ recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
 - (b) If there are fewer than 50 persons in a language group that reaches the five percent trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.
- **At 41471:** Every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions.
 - Where certification is available, courts should consider carefully the qualifications of interpreters who are not certified.
 - In a courtroom or administrative hearing setting, the use of informal interpreters, such as family members, friends, and caretakers, would not be appropriate.
- [Commonly Asked Questions and Answers Regarding Limited English Proficient \(LEP\) Individuals](#), DOJ

Question: When developing plans and guidance regarding translation of documents, how do we determine which documents must be translated?

Answer: It is important to ensure that written materials routinely provided in English also are provided in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity. A document will be considered vital if it contains information that is critical for obtaining federal services and/or benefits, or is required by law.
- [Language Access Planning Technical Assistance Tool for Courts](#), February 2014
 - Pg. 13: Examples of vital documents for courts include, but are not limited to,
 - Consent forms
 - Complaint forms
 - Pro se materials
 - Notices of rights
 - Summonses
 - Subpoenas
 - Case filing forms

- Notices of language service availability
- Orders

[ABA Standards for Language Access in Courts](#)

STANDARD 7: TRANSLATION

Courts should establish a process for providing access to translated written information to persons with limited English proficiency to ensure meaningful access to all court services.

- 7.1 Courts should establish a system for prioritizing and translating documents that determines which documents should be translated, selects the languages for translation, includes alternative measures for illiterate and low literacy individuals, and provides a mechanism for regular review of translation priorities.
- 7.2 To ensure quality in translated documents, courts should establish a translation protocol that includes: review of the document prior to translation for uniformity and plain English usage; selection of translation technology, document formats, and glossaries; and, utilization of both a primary translator and a reviewing translator.