

Ensuring Equal Access to Justice for Individuals Who are Deaf or Hard of Hearing

Justice of the Peace Guidelines for Understanding and Fulfilling the Court's Legal Obligation

Answers to your frequently asked questions including:

Who needs a qualified sign language interpreter?

Does the Court have to provide a qualified interpreter?

How do I find a qualified interpreter?

What is the interpreter's role?

What can the Justice of the Peace do to assist the interpreted proceedings?

Disability Rights Texas is the federally designated protection and advocacy agency for people with disabilities in Texas. Our mission is to help people with disabilities understand and exercise their rights under the law, ensuring their full and equal participation in society.

For more information about our services, visit www.dr.tx.org or call (512) 454-4816.

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Every day, Texas Justices of the Peace interact with diverse individuals whose lives are being directly impacted by our justice system. Some of these individuals are deaf or hard of hearing. Texas JPs and their court staff play a key role in ensuring equal access to justice for these individuals.

Who needs a qualified sign language interpreter?

Usually the court discovers the need for an interpreter because the individual who is deaf or hard of hearing (or his/her attorney) requests one.

However, courts should also consider interpreters if a person who is deaf or hard of hearing has difficulty communicating or understanding spoken or written language. The court should not assume that written communication or lip reading will work, as some who are deaf or hard of hearing may have difficulty with this form of communication.

Does the court have to provide a qualified interpreter? Who pays?

All Texas civil and criminal courts are required to appoint a certified or licensed interpreter for civil or criminal court proceedings.¹ The court is also required to appoint an interpreter for witnesses, jurors, and counsel. The court is responsible for scheduling, arranging, and paying for the interpreter.

The individual who is deaf or hard of hearing is not responsible for making these arrangements and may not be charged for the cost of a qualified interpreter. The interpreter's fee and expenses are paid from the general fund of the county in which the case was brought.²

What is a qualified interpreter? How do I find one?

In Texas state courts, a "qualified interpreter" is an interpreter who holds a Court Interpreter Certification from BEI/DARS³ or a legal certificate from the National Registry of Interpreters for the Deaf.⁴ Family members, friends, or court personnel should never be asked to serve as an interpreter. Court staff are responsible for verifying an interpreter's qualifications before scheduling the interpreter to appear in court.

If your court administrator, clerk, or ADA co-

ordinator does not already have a relationship with an interpreter service, check the state or national certified lists at www.dars.state.tx.us/dhhs or www.rid.org/.

Remember, the court is responsible for locating, scheduling, assigning, and paying for qualified interpreters. Also, since different signed languages exist, the court should verify the individual's preferred language before scheduling an interpreter.

What is the role of a qualified interpreter?

The qualified interpreter has two primary responsibilities during a court proceeding: (1) to listen to what is said in English and convey the meaning in sign language, and (2) to observe the communications of the deaf or hard-of-hearing individual and interpret them into English.

Professional interpreters know to interpret everything that is said in the courtroom without omissions or additions. They also know not to conduct any side conversations.

Occasionally, however, questions posed to a deaf or hard-of-hearing individual may require the interpreter to break the question down into more than one part in order to fit the grammatical structure of sign language.

In those cases what may appear as an exchange between the witness and the interpreter is actually part of the interpreting process and should not be misconstrued as a side conversation.

The interpreter may also occasionally request clarification if he or she does not understand a word or phrase.





Ideally, courts should have a clear procedure in place for arranging for a qualified interpreter and should verify that all staff are aware of the court's obligation to provide qualified interpreters and procedures for doing so.

Should an interpreter take an oath prior to the proceeding?

Yes. Here is a sample oath based on the language in the statute:⁵ "Do you solemnly swear or affirm that you will make a true interpretation of all case proceedings and discharge all of the duties and obligations of legal interpretation and translation to your best skill and judgment so help you God?"

What can the Justice of the Peace do to assist the interpreted proceedings?

When using an interpreter, the judge may find it helpful to clarify the interpreter's role to the parties prior to the court proceeding. Other suggestions include:

- Ask for the interpreter's input on the best location for the interpreter in relation to the others involved in the communication.
- Speak directly to the deaf or hard-of-hearing individual, not to the interpreter.
- Speak in a natural speed and tone of voice, but speak clearly and slowly enough for the interpreter to keep up.
- Sign language does not always have specific signs for specialized or technical words. Sometimes interpreters will need to "fingerspell" specialized or technical words or may need help understanding the concept first in order to provide an equivalent sign or interpretation. Providing vocabulary lists, documents, or pleadings to the interpreters in advance will ensure a more successful and accurate interpretation.
- Allow only one person to speak at a time.
- For longer proceedings with continuous interpreting, the court should hire a team of two interpreters. The teaming allows the interpreters to switch roles every 15 to 20 minutes which will ensure effective communication.

Are there other accommodations the court should provide?

For court proceedings, courts will need to use a qualified sign language interpreter if the individual's primary or preferred language is sign language. How-

ever, for informal and brief interactions with staff, the court may find other accommodations, such as written communication, are effective. Examples of informal and brief interactions are the in-person confirmation of the date and time of a hearing or an interaction confirming the location of jury duty.

Occasionally, a person who is deaf or hard-of-hearing may request something other than a sign-language interpreter, such as CART, intermediary interpreters, oral interpreters, or assistive listening devices. The court should give primary consideration to the communication method requested.

Is there anything else I should know?

Ideally, courts should have a clear procedure in place for arranging for a qualified interpreter and should verify that staff are aware of the court's obligation to provide such interpreters and procedures for doing so. The process for requesting a qualified interpreter should also be publicized so that individuals will be aware of proper procedures.

If you have any questions about an interpreter's performance or want to file a complaint, contact the DARS Office for Deaf and Hard of Hearing Services at 512-407-3250 or by e-mail at bei@dars.state.tx.us.

To file a written complaint by mail: DARS DHHS, at P.O. Box 12904 Austin, TX 78711.

Visit www.dr.tx.org/resources/accessibility to download an electronic version of this document.

Endnotes:

¹Tex. Gov't. Code § 57.002.

²Tex. Civ. Prac. & Rem. Code § 21.006.

³BEI/DARS means the Board of Evaluation of Interpreters at the Texas Department of Rehabilitative Services.

⁴Tex. Civ. Prac. & Rem. Code § 21.003.

⁵Tex. Civ. Prac. & Rem. Code § 21.005.



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