

# SPANISH AND LEGAL TERMS

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# Agenda

- Why bother?
- Legal resources
- Terms
- Interpreters
- Tips for Dealing with Interpreters
- Interpreting Services for People with Disabilities

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WHY BOTHER?

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As the child of a native Spanish speaker, this is important to me.

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## Data from the U.S. Census Bureau, 2023

35.4% of homes in Texas speak a language other than English

28.2% of Texas homes speak Spanish

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Even if a person speaks some English ...

... that person may be limited English proficient (LEP) or may not feel comfortable using English when legal rights may be affected.

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## Remember, at trial a non-native speaker must be able to: (1/2)

1. Accurately and completely describe persons, places, situations and events;
2. Tell what happened over time;
3. Request clarification when questions are vague or misleading; and

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Remember, at trial a non-native speaker must be able to: (2/2)

4. During cross-examination:

- Recognize attempts to discredit their testimony
- Refuse to confirm contradictory interpretations of facts, and
- Defend their position.

According to the OCA

About 1 in 7 Texans doesn't speak enough English to meaningfully participate in a court hearing.

# Liability For You and Your Court

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If a defendant is unable to meaningfully participate in a criminal proceeding because a reasonable accommodation is not provided, it could be a violation of Due Process

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## Civil Rights Act of 1964

- Failure to provide an interpreter could be unlawful discrimination by national origin by a recipient of federal funds.

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## DOJ Civil Rights Division

- “Dispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary.
- Policies and practices that deny LEP [limited English proficient] persons meaningful access to the courts undermine that cornerstone.”

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## What if court doesn't take reasonable steps to accommodate LEP persons?

- Any time the DOJ finds that a court system has not complied with the law, it can suspend or terminate funding or use civil litigation to enforce the nondiscrimination provisions.

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## Americans with Disabilities Act protects litigants with communication disabilities

Your court could be liable for failing to make reasonable accommodations to allow people with a disability to access the court system

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## Quiz 1

- Does the court have a legal duty to get an interpreter for a witness who doesn't speak English?
- A. No, if the witness is not a party.
- B. Yes

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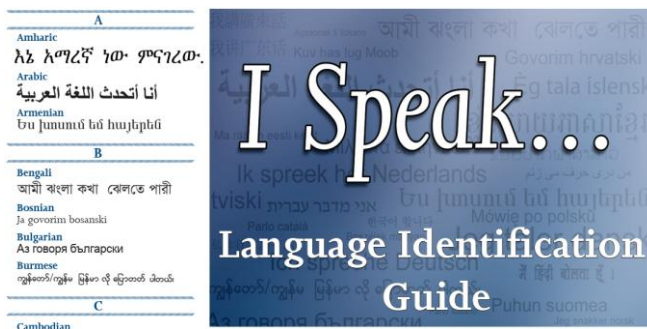
LEGAL  
RESOURCES

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# ON-LINE LEARNING

- Self-Paced Module: Interpreters & Spanish Legal Terminology
- Found on TJCTC website

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Handout 1 is a guide for determining what language a litigant might speak or understand.

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## TJCTC has form legal orders in Spanish for you



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## For pro se litigants

TJCTC has a number of  
Spanish resources

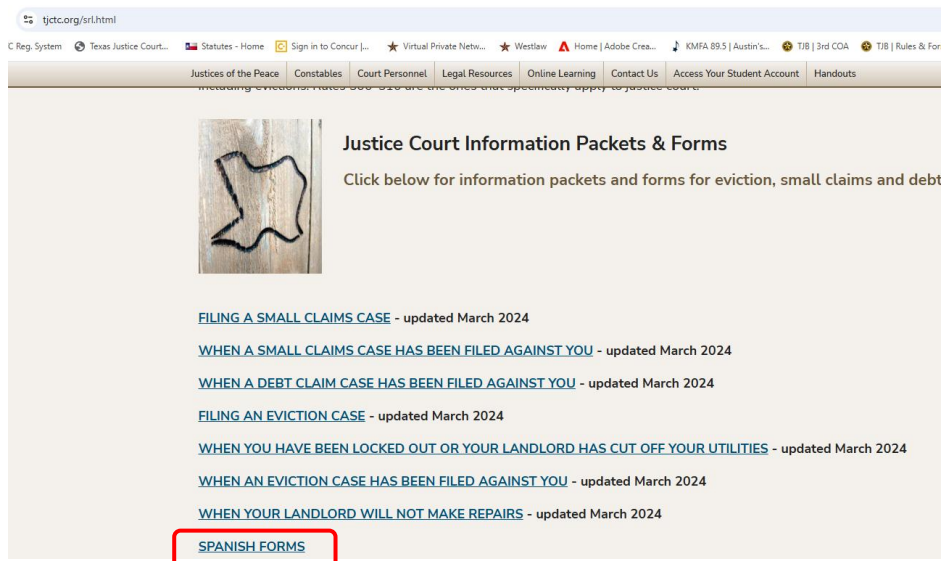
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## TJCTC has SRL info for people filing a small claims case

One packet and 8 separate forms in Spanish for them to use.



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## For Landlords

TJCTC has a packet and 5 forms in Spanish

### CÓMO PRESENTAR UN CASO DE DESALOJO

[¿Cómo presentar un caso de desalojo \(Filing an Eviction\)](#)

[MANDANTE \(Appeal Bond - Plaintiff\)](#) (DOCX, 15KB)

[¡ECUCIÓN \(Application for Writ of Execution\)](#) (DOCX, 15.1KB)

[¡MBARGO \(Application for Writ of Garnishment\)](#) (DOCX, 15.1KB)

[AD PARA SUPLIR PAGOS SOBRE LOS GASTOS JUDICIALES O UNA FIANZA D](#)

[¿ \(Petition -- Eviction Case\)](#) (DOCX, 21.9KB)

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## For Tenants

TJCTC has a packet and 3 forms in Spanish

### CUANDO UN CASO DE DESALOJO HA SIDO

[¡nete de autoayuda- Cuando un caso de desalojo ha sido  
been filed against you\)](#)

[DE APELACIÓN DEL DEMANDADO \(Appeal Bond - Defendant\)](#) (DOCX

[ACIÓN SE INCAPACIDAD PARA SUPLIR PAGOS SOBRE LOS GASTOS  
t Costs\)](#) (DOCX, 50.2KB)

[¡ PARA ANULAR FALLO POR INCOMPARIENCIA \(Motion to Set Aside \[](#)

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## FOR DEBT CLAIM DEFENDANTS

TJCTC has a packet and 7 forms in Spanish

### CUANDO SE HA PRESENTADO UN CASO DE RECLAMACIÓN DE DEUDA

[SRL - Cuando se ha presentado un caso de reclamación de deuda en su contra \(When a d against you\)](#)

[RESPUESTA DEL DEMANDADO \(RECLAMOS O CASOS DE RECLAMACIÓN DE DEUDA \(Answer - Civil\)\)](#) (DOC

[FIANZA DE APELACIÓN DEL DEMANDADO \(Appeal Bond - Defendant\)](#) (DOCX, 15.1KB)

[DECLARACIÓN SE INCAPACIDAD PARA SUPLIR PAGOS SOBRE LOS GASTOS JUDICIALES O UNA FIANZA Afford Court Costs\)](#) (DOCX, 50.2KB)

[ORDEN DE PROPUESTA PARA UN NUEVO JUICIO \(Motion for New Trial\)](#) (DOCX, 19.7KB)

[MOCIÓN PARA ANULAR FALLO POR INCOMPARENCIA \(Motion to Set Aside Default Judgment\)](#) (DOCX, 19.5

[MOCIÓN PARA TRANSFERIR EL JUICIO \(Motion to Transfer Venue\)](#) (DOCX, 20.3KB)

[SOLICITUD DE EMISIÓN DE UNA CITACIÓN \(Request for Subpoena\)](#) (DOCX, 20.7KB)

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## The problem with using Spanish forms

Spanish forms may be useful for one litigant, but not the other. How can we make this work for everyone?

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# For Locked-Out Tenants

TJCTC has an information packet in Spanish

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## Texaslawhelp.org

- has short videos in Spanish for tenants at <https://texaslawhelp.org/article/tenant-rights-basic-training-Spanish>, covering a variety of issues

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## Houston Bar Association Spanish Legal Line

- People can register for it at
- <https://texaslawhelp.org/event/houston-bar-association-legal-line-spanish-line>
- Email: [probono@hvlp.org](mailto:probono@hvlp.org)
- Phone: (713) 228-0735
- Volunteers may be able to provide a 20-minute consultation. The Spanish version is on the first Thursday of the month from 6pm – 8pm.

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## Hotline with Spanish speakers for people in Bastrop, Hays, Travis and Williamson

- LegalLine
- (512) 472-8303
- 1st Tuesday of each month
- 5:30pm – 7:30pm
- Bastrop, Hays, Travis, and Williamson County residents
- Attorneys who are bilingual are available.

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## Hotline with Spanish speakers for people for Texas Rural Legal Aid

- Texas Access to Justice from Texas Rural Legal Aid
- (888) 988-9996
- Monday - Friday
- 9am – 5pm
- For those who qualify in their service area.
- Spanish language assistance available

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## Group Discussion

- How does your court help LEP people?

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## Spanish Legal Terminology

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## Parties

- Defendant: el/la acusado(a), demandado(a)
- Plaintiff: el/la demandante

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## Officers of the Court (1/2)

- Judge: el/la Juez
- Attorney : el/la abogado(a), licenciado(a), apoderado(a), letrado(a)

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## Officers of the Court (2/2)

- Bailiff: el alguacil, la guarda de sala
- Jury: el jurado

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WITNESS

El/la testigo(a)

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## Legal documents (1/2)

- Affidavit: la declaración jurada por escrito, el affidavit
- Complaint: la querela, la queja, la denuncia, la reclamación.

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## Legal documents (2/2)

- Judgment/verdict: el juicio, la sentencia
- Lawsuit: la demanda
- Warrant: la orden

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## Damages

- La indemnización, daños y perjuicios.

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## Appellate terms

- Appeal: la apelación, el recurso
- Appellant: el/la apelante
- Appellee: el/la demandado a la apelación

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## Other terms (1/2)

- Evidence: la evidencia, la prueba
- Crime: el crimen
- Plea: el alegato, la suplica, el pretext

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## Other terms (2/2)

- Conviction: la condena, la convicción
- Bankruptcy: la bancarrota

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## Something to keep in mind

It is a violation of the Texas Deceptive Trade Practices Act for someone to advertise as a “notario publico,” even though that is a literal translation of “notary public.”

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Be aware that different countries have different idioms

- When “cancelar” does not mean “to cancel.”

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## Quiz 2

- A person comes into your office and says something about “Licenciado Zúñiga.” Who is that?
  - A. An attorney
  - B. A witness

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## Quiz 3

- What is a demanda?
- A. A lawsuit
- B. A warrant

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Interpreters

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## When MAY the court appoint an interpreter in civil cases?

- Rule 183 – The court may appoint an interpreter of its own selection and fix the interpreter's reasonable compensation. The compensation may 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.

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## Difference between translator and interpreter

- Translator deals with the written word.
- Interpreter deals with spoken language.

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## When MUST the court appoint an interpreter in civil cases?

- A court shall appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English **if a motion** for the appointment of an interpreter or provider **is filed** by a party **or requested by a witness** in a civil or criminal proceeding in the court.
- Tex. Gov't Code section 57.002(a)

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## When MUST the court appoint an interpreter in criminal cases?

- When a motion for appointment of an interpreter is filed by any party or on motion of the court, in any criminal proceeding, it is determined that a person charged or a witness does not understand and speak the English language, an interpreter must be sworn to interpret for the person charged or the witness.”
- CCP Art. 38.30(a)

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Normally, the Government Code expects a licensed court interpreter

- Qualified under:
- CCP Art. 38.31;
- Civ. Prac. & Rem. Code § 21.003; or
- “Certified CART provider”

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## Exception to licensed interpreter (1/2)

- County with population <50,000
- Or

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## Exception to licensed interpreter (2/2)

- In a county with 50,000 or more, if
  - (1)The necessary language is not Spanish; and
  - (2)Court finds there is no licensed court interpreter within 75 miles

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## If interpreter is not certified

- The person:
  - (1)Must be qualified by the court as an expert;
  - (2)Must be at least 18 years of age; and
  - (3)May not be a party.

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## Texas Court Remote Interpreter Service (1/2)

- OCA provides free Spanish, French, Portuguese, and German interpretation by advanced scheduling or on demand. Only for short, non-contested, and non-evidentiary hearings that typically last 30 minutes or less.
- Done by telephone or by video conference, using the court's existing equipment.
- It cannot be used for customer service at the clerk's office.

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## Texas Court Remote Interpreter Service (2/2)

Mailing address:

TCRIS  
PO Box 12033  
Austin, Texas 78711

- To schedule a court interpreter through this program, visit: <http://www.txcourts.gov/tcris/>.
- Email: [interpreter@txcourts.gov](mailto:interpreter@txcourts.gov)
- Phone (512) 463-5656
- Fax (512) 666-3633

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## Database for interpreters

- <https://jbcctexas.txcourts.gov/Protected/LIC/LicenseeSearch.aspx?Program=LIC&PubliSearch=Y&returnURL=~/Login.aspx?TI=2#no-back>
- By clicking on “(+) Address Information” on that page, you can search by county for different interpreters.

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## Interpreter's Oath

- “Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and Texas Licensed Court Interpreters’ Code of Ethics; follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?”

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## Group discussion

- Is it appropriate for clerks to act as interpreters?
- If the clerk is not certified, make sure the litigants do not object

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How do you find or retain your interpreters?

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# Tips for Hearings Using Court Interpreters

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## Step one

Meet with the interpreter to see how the interpretation will occur and make sure that you have the equipment/facilities to meet the interpreter's needs.

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## Step two

Meet with the Limited English Proficient (LEP) person and explain how the interpreting will work.

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## Step three

- Don't speak to the interpreter directly. They will interpret everything you say.

✗ "Ask the witness what their name is."

- ✓ "What is your name?"

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## Step four

- Witnesses should help interpreters by avoiding slang, acronyms, and idioms. Or you should explain them.

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## Step five

- Always do equipment checks to ensure the audio is good. This is especially important for virtual interpreting.

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## Step six

- Be prepared to schedule in breaks if the hearing is going to take a while.
- United Nations standards for conference interpreting call for replacing interpreters every 45 minutes, but this may not be feasible for you.

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## Step seven

- Provide interpreters with relevant materials before the trial to help them prepare. This can include names, case types, and any relevant documents.

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## Step nine

- Be responsive when an interpreter reports an impediment to their interpretation.

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## Step ten

- Ensure the interpreter is the right fit, for whatever reason.

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# Interpreting Services for Persons with Disabilities

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## What does the ADA mean?

- The ADA requires that we make “reasonable accommodations to allow someone with a “disability” have access to a public service like the court system.

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## What a “disability?”

- A “disability” is a physical or mental impairment that substantially limits their ability to perform one or more major life activities, like breathing, walking, reading, thinking, seeing, hearing, or working.

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## What is an example of a significant impairment?

- For example, just because a pet calms someone down doesn't mean that the court must allow them to take one into a courtroom.
- However, if their untreated anxiety is so high that they cannot function inside the courtroom, that would be a significant impairment.

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## Is medical documentation required?

- It is not required when the disability and/or need for accommodation is not known or obvious.
- Even then, only documentation sufficient for need of accommodation is required.

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## What kind of impairment?

- The impairment can be substantial even if it can be moderated (like someone who has hearing aids).
- The impairment can also be temporary.

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## Examples of communication aids and services

- American Sign Language interpreters
- Video remote interpreting
- Notetakers
- Large print materials
- Captioning
- Accessible electronic and information technology

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## Reasonable accommodations = flexibility

- People with certain disabilities might communicate in different ways.
- The goal is to find a solution that fits the circumstances.

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## Sign interpretation in an emergency

- In an emergency involving an imminent threat to the safety or welfare of an individual or the public, an adult or minor child accompanying the person may interpret only when a qualified interpreter is not available.

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## Using a companion to sign – no emergency

- In situations **not** involving an imminent threat, an adult accompanying someone who uses sign language may be relied upon to interpret or facilitate communication when a) the individual requests this, b) the accompanying adult agrees, and c) reliance on the accompanying adult is appropriate under the circumstances. This exception does not apply to minor children.

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## Cannot use companion to sign when there is doubt of effectiveness

- It would be inappropriate to rely on a companion to interpret who feels conflicted about communicating bad news to the person or has a personal stake in the outcome.
- Of course, an alleged abuser should not interpret for a spouse.

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## Time

- Sometimes you can request a reasonable amount of time for aids or services, depending on the length of time you need to acquire it. Still, if someone just walks in with a request, you need to do the best you can to accommodate.

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## For example:

- If a person who is deaf is paying for a ticket and has a question, exchanging notes may be effective.
- This would not be a good idea for trial.

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## Quiz 4

- When choosing an aid or service, title II entities, like your court, are required to give primary consideration to the choice of aid or service requested by the person who has a communication disability.
- A. True
- B. False

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## Quiz 5

- True or False: If a litigant comes to court with their 15-year-old daughter, the court does not have to find a different interpreter for a hearing or trial.

- A. True
- B. False

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## Quiz 6

- If a Spanish speaking clerk converses with a party in Spanish, does the clerk have to be a licensed interpreter?

- A. Yes
- B. No.

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## Quiz 7

- Is the court required to use the same interpreter for every hearing in a case?
- A. Not usually
- B. Yes

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## Quiz 8

- A party asks for a translator. The opposing party claims this person speaks flawless English. Does the court have to appoint an interpreter?
- A. Yes, the party's allegation must be taken as true
- B. No.

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