



Best Practices for Courts in Zoom Hearings Involving Self Represented Litigants

Here are some quick tips on best practices for handling cases involving self-represented litigants (SRLs) on a remote basis.

1. Important Information:

- a. **Lack of Internet or Reliable Internet:** Many people do not have access to the internet, or reliable internet, in the home. Public access to the internet via libraries, coffee shops, and other local options is problematic due to privacy issues and may not currently be an option due to stay in place orders.
- b. **Limited Phone Data/Call Minutes:** Some people may only have phones with a limited number of call minutes or data plan minutes, so they may not be able to use their phones to participate in a video hearing or even to participate by phone. You may need to work with the litigant to determine how they can have meaningful participation in the hearing. We do not have a solution for this problem, and welcome your ideas
- c. **Email:** Some SRLs may not have email. Those who have an email address may not be able to check their email due to a lack of internet access. Those who have access to their email may not understand the importance of checking their email regularly for information about their case. Please explain the need to check email daily or arrange an alternative way to contact SRLs for notice of upcoming hearings.
- d. **Consequences of Failing to Act:** Many people do not understand the consequences of failing to respond to a case or act timely in a case. Please explain these consequences to litigants.
- e. **Plain Language.** When communicating orally or in writing with a SRL, please use language at a 3rd grade reading level when possible. Short, clear sentences are best. Avoid legalese (for example, most people do not know what “default” means), terms of art, and acronyms. The National Association for Court Management developed a [Plain Language Guide](#) in 2019 on how to incorporate plain language into court forms, websites and other materials that may be useful to you.
- f. **Caretaker Responsibilities and Privacy Concerns:** Many schools, preschools, day care centers, in-home nursing care and the like have closed. Due to social distancing and stay at home orders, people may not have access to a friend or family member who can take over these responsibilities during a hearing. Be sensitive to a litigant’s ability to participate in a hearing without interruption. Privacy concerns are especially important in cases involving domestic violence or children in the household. Make reasonable accommodations to address privacy concerns and a litigant’s need to give medication to a family member, feed a baby, etc.

2. Notice of Hearing and Materials to Provide with Notice to SRLs

- a. **Send written notice in plain language by mail to the address on file when possible.**
 - i. Comment: Email notice is challenging for the above-mentioned reasons.
- b. **Contents of Notice of Hearing.**
 - i. Make sure your form notices state that the hearing will occur by video conferencing software, Zoom, and that the party should not to appear in person at the courthouse.
 - ii. Make sure to include basic information on what technology and equipment will be needed to participate in the hearing – such as reliable access to the internet, a phone,

laptop, tablet, desktop, etc. – and what to do if they do not have access to those things.

- iii. Include a short notice in Spanish, and any other languages that are common in your court, instructing SRLs with limited English proficiency to contact the court to get language assistance such as translation of the notice and the materials provided with the notice.
- c. **Instructions on How to Use Zoom + Contact Person:** Provide step-by-step instructions in plain language on how to access and use Zoom, including contact information for a person who can assist them if needed. Email alone is not helpful for those without internet.
- d. **Information on Court Procedure + Contact Person:** Provide step-by-step information in plain language on court procedure for hearings, including how to submit exhibits for the hearing and contact information for a person who can assist them if needed.
 - i. *Note:* TAJC has included basic information on court processes and procedure in its Tips for Self-Represented Litigants in Zoom Hearings that can be modified to accommodate your local rules and processes and distributed to litigants.
- e. **Provide a way for SRLs to inform the court of the following:**
 - i. Their phone number and email address, if any;
 - ii. Lack of internet or reliable internet;
 - iii. Lack of ability or limited ability to access the hearing by phone;
 - iv. Lack of ability to submit evidence electronically;
 - v. Lack of childcare or coverage for other caregiver responsibilities;
 - vi. Whether they are ready to have the hearing or need a continuance;
 - vii. How long they think the hearing or trial will take to present their side of the story, including witnesses and evidence;
 - viii. Whether they need any ADA accommodations (*Coming Soon* – an addendum on accommodations);
 - ix. Whether they, or a witness, needs an interpreter, and if so, what language(s); and
 - x. How many witnesses they want to testify on their behalf.
- f. **Develop a Plan B**
 - i. Develop a way to handle hearings involving SRLs or parties without reliable access to the internet, phone, tablet, laptop or desktop computer.
 - ii. Develop a plan for handling virtual hearings when technological difficulties make it impractical to continue the hearing.
- g. **Provide a list of legal resources serving your area:**
 - i. *2019-2020 State Bar Referral Directory.* The Legal Access Division of the State Bar of Texas publishes a list of local and statewide legal aid and pro bono providers as well as lawyer referral services in their [Referral Directory](#).
 - ii. *Texas Law Help.* The Texas Legal Services Center, a legal aid organization, hosts [Texas Law Help](#), a website that provides free information and resources, including a LiveChat feature for low-income people.

3. Hearings:

- a. **At the beginning of the hearing:**
 - i. *Address potential technical difficulties.*
 - 1. Ask litigants about the reliability of their computer, internet, or phone.
 - 2. Tell litigants what to do if they experience problems with their internet, computer, or phone, such as instructing the litigant to click on the Zoom link again if their connection drops, or to call back in to the Zoom number provided.

3. Provide litigant with a call back number not associated with the Zoom hearing in case they cannot reconnect.
 4. Obtain the litigant's phone number or other emergency contact in case it is needed.
- ii. *Assess need for ADA accommodations or an interpreter.*
 1. Ask litigant if they need ADA accommodations or an interpreter.
 2. Address as needed.
 - iii. *Caretaker responsibilities and privacy issues.*
 1. Ask litigant if there any caregiver responsibilities or privacy issues.
 2. Invite them to let you know if these issues arise during the hearing.
 - iv. *Overview of hearing.*
 1. Review what will happen during the hearing in plain language.
 2. Provide information about the proceeding and any procedural requirements involved, including how to upload evidence. If the litigant is participating by phone only, tell the litigant how to provide their evidence to the court.
- b. During the hearing:**
- i. *Oath.* If a party is unable to participate by video, have them recite the oath while on the phone rather than require a notary. It is impossible to have a notary present when stay in place orders exist. Additionally, if the litigant does not have access to the internet at home or a computer, they likely do not have the funds to pay a notary.
 - ii. *Reasonable Accommodations.* A judge may make reasonable accommodations to ensure all litigants the right to be heard without violating the duty to remain impartial. A judge may consider the totality of the circumstances, including the type of case, the nature and stage of the proceeding, and the training, skill, knowledge, and experience of the persons involved when making reasonable accommodations. For example, a judge may:
 1. Construe pleadings and briefs liberally,
 2. Ask neutral questions to elicit or clarify information,
 3. Modify the mode and order of evidence as permitted by the rules of procedure and evidence, including allowing narrative testimony,
 4. Explain the basis for a ruling, and/or
 5. Inform litigants what will be happening next in the case and what is expected of them.
- c. At the end of the hearing**
- i. *Litigant's email address.*
 1. If litigant has access to reliable internet at home (not through a library or public place), ask litigant if they have an email address.
 2. If so, tell them that notices of future court hearings will be emailed to the email address they gave you.
 3. Admonish them to check it daily and warn them of the consequences of missing a hearing.
 4. Tell them how to contact the court if their access to internet or phone number changes while their case is pending. Many people will lose access to their phones and internet if they lose income due to COVID-19. If that happens, they will need to receive notices by mail.
 - ii. *Review next steps.* Tell the litigants what will happen next, what is expected of them, and inform them of the next hearing date, if known.

Appendix A
Accommodations for Persons with Disabilities
By Brian East, Senior Attorney, Disability Rights Texas

1. Introduction

The ADA and other laws apply to state and local courts,¹ as well as to attorneys.² These laws prohibit disability discrimination, and generally require that courts and lawyers provide equal access and an equal experience. Specific obligations include:

- Providing auxiliary aids and services (e.g., interpreters, captioning) to ensure effective communication
- Providing accessible electronic and web content
- Providing reasonable modifications to policies and practices
- Avoiding criteria or methods of administration that have a discriminatory impact (whether done directly or via contracts, etc.)

2. Give instructions for requesting modifications or auxiliary aids and services

- Invite people to ask for any modifications or auxiliary aids and services
- Describe in detail how parties should make the request
- Do not require a specific form or rigid adherence to the court's preferred process for requesting accommodations
- Avoid inflexible deadlines if possible
- Make sure the information is available in accessible formats

3. When attorney, party, or witness is blind or has low vision

- Ensure that web pages are accessible to and usable by screen-reader technology³
- Use a video platform that is usable by screen-reader technology (Zoom is considered generally accessible to blind individuals who use screen readers)
- Make sure that any documents being used, including exhibits, are in accessible formats
 - Word and PowerPoint documents have built in accessibility checkers
 - PDF documents are only accessible if the Select Text function works (i.e., OCR)
- Ensure, to the extent possible, that any documents are circulated in advance
 - Understand that Share Screen functions may not work for individuals who are blind
 - Understand that functions done during the hearing such as zooming in and highlighting may not translate
- Design any kiosks with accessible features (e.g., “talking,” etc.)⁴

¹ 42 U.S.C. § 12131(1).

² 42 U.S.C. § 12181(7)(F).

³ An accessible website generally means it complies with WCAG 2.0 Level AA. See 1 T.A.C. § 206.70(a). *See also* Accessibility Policy of the Texas Judicial System is online at <https://www.txcourts.gov/site-policies/accessibility-policy/>.

⁴ For an example of an accessible kiosk, see the 2010 ADA Standards for Accessible Design, Sec. 707 (“Automatic Teller Machines and Fare Machines”), available online at <https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#pgfld-1006537>.

4. When attorney, party, or witness is deaf or hard of hearing

- Determine the primary or preferred method of communicating (e.g., American Sign Language; Signed Exact English, real-time captioning [CART], etc.)
- Have ongoing contracts with interpreting and captioning services
- When the primary method of communication is sign language:⁵
 - Remember state law requirements for interpreters⁶
 - Arrange for interpreter team to join video hearing as official interpreters
 - Ensure that interpreters are court-certified and fluent in the relevant sign language
 - Do not use the telephone “relay” service for interpreting
 - Do not use back and forth writing with deaf individuals unless they request it
 - Do not rely on lip-reading
 - Avoid using TTD or TTY machines
- If the deaf individual has an attorney or advocate:
 - Ask attorney/advocate if she will be using a “table” interpreter (i.e., a separate interpreter for private discussions)
 - Be prepared to place advocate, client, and table interpreters into a private “room” for confidential discussions
- For real-time captioning:⁷
 - Use a professional CART provider rather than assuming a court reporter can do it
 - Avoid automated captioning services or programs
- Lip-reading:
 - Do not rely on lip-reading for deaf individuals who primarily communicate by sign
 - Occasionally, individuals who are hard of hearing (and particularly those who do not sign) do use lip-reading as part of their communication process, and if that is the case, make sure that speakers are close enough to the camera and well lit.

5. Other Common Modifications/Accommodations

- Recognize that some individuals will use a telephone to connect, and may have no webcam.
- Ensure that materials and information use plain language.
- Even after courts re-open, consider remote attendance if needed as a reasonable accommodation because some people have the needed equipment at home and prefer to use it due to familiarity, etc.
- If remote attendance is impossible, consider continuing the hearing to a time that minimizes risk of exposure to COVID-19.
- If remote attendance is impossible, consider relocating to a place that allows more distancing.

⁵ The ABA’s Commission on Disability Rights has published step-by-step instructions for using interpreters on the Zoom platform, available online at https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/covid/zoomaccessibility.pdf.

⁶ See <https://www.txcourts.gov/lap/>.

⁷ The ABA’s Commission on Disability Rights has published step-by-step instructions for providing Closed Captioning on the Zoom platform, available online at https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/covid/zoomaccessibility.pdf.

Appendix B Language Access and Remote Interpretation

Litigants and other court patrons who have limited English proficiency need language assistance services such as interpretation and translation to access the courts and resolve their legal problems. The same laws and rules about language access in Texas courts still apply when courts are partially closed and many proceedings are virtual. Below is a recap of the relevant law and some quick tips on best practices for how to provide meaningful access to justice for LEP persons in remote hearings. Many of these recommendations are also best practices under normal circumstances.

1. Important Terms

- **Limited English Proficient** – Individuals who do not speak English as their primary language and who have limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." It is important to note that someone can be English proficient in certain contexts but not in others. For example, they may know enough English to accomplish basic tasks like small talk and grocery shopping, but not enough to understand what the teacher is saying at a parent conference or participate in a court proceeding. The English proficiency needed in legal settings is much higher than what most people need in typical daily encounters, which is why legal information and court proceedings can be difficult even for many native English speakers to understand, and why people who know some English often need language assistance services in court. See below for some sample questions to help you assess whether a person would benefit from an interpreter in court.
- **Language access** – An umbrella term encompassing the idea that people with limited English proficiency (LEP) are entitled to meaningful access to programs and services. It implies the existence of laws and policies and the availability of services and supports to ensure that access is not significantly restricted, delayed, or inferior as compared to English proficient individuals.
- **Interpretation** – When a competent interpreter listens to something in one language (source language) and orally translates it into another language (target language).
- **Translation** – When a competent translator renders written text from one language (source language) into an equivalent written text in another language (target language).
- **Sight translation** - The reading of text written in one language (source language) by a competent interpreter who orally translates it into another language (target language).
- **Vital document** - A document that contains information critical for obtaining access to justice. Some examples of vital documents that courts may need to translate to ensure that LEP individuals are provided meaningful access can include information about and applications for programs, benefits, or services; intake forms; court forms; consent or complaint forms; notices of rights; letters or notices that require a response or responsive action; or orders that prohibit or compel conduct; and information about language assistance services.
- **Simultaneous interpretation** - When a competent interpreter listens to something in one language (source language) and orally translates it into another language (target language) in real-time without pauses.
- **Consecutive interpretation** – When a competent interpreter listens to something in one language (source language) and orally translates it into another language (target language) while the speaker pauses to allow for the interpretation before continuing.

2. State and Federal Law

Title VI of the Civil Rights Act of 1964

Title VI and its implementing regulations prohibit national origin discrimination in court programs and services, whether criminal, civil, or administrative.⁸ The regulations prohibit discriminatory conduct such as providing a service or benefit that is different, or provided in a different manner, from what is provided to others under the program or that restricts in any way the enjoyment of any advantage or privilege enjoyed by others under the program on the basis of national origin.⁹ The regulations also prohibit administering programs in a manner that has the effect of discriminating in those ways or “substantially impairing accomplishment of the objectives of the program” based on national origin.¹⁰ In 1974, the U.S. Supreme Court held that Title VI’s prohibition against discrimination on the basis of national origin includes discrimination against LEP individuals based on language.¹¹

This means that courts must “ensure that LEP parties and witnesses receive competent language services ... At a minimum, every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present.” In situations where courts typically rely on written communication, translating documents that are vital to providing meaningful access is also required.¹² Language assistance must be provided free of charge.¹³

Texas Government Code Chapter 57

Section 57.002 defines when a judge must appoint a licensed court interpreter¹⁴ and when a judge may appoint an unlicensed court interpreter. It also describes the minimum criteria an unlicensed interpreter must meet to be appointed in a court proceeding. It applies to all courts and both civil and criminal proceedings. Because the language of the statute has become somewhat convoluted over the years, we have summarized its requirements in the charts below for simplicity’s sake.

The first chart illustrates when a judge is required to appoint an interpreter and when the judge has discretion to appoint an interpreter. The second chart is for after a judge decides to appoint an interpreter either because a motion was filed, a request was made, or the judge decided *sua sponte* that an interpreter is needed to provide meaningful access to the proceeding for an LEP person. It illustrates when a judge must appoint a licensed court interpreter and when a court has discretion to appoint an unlicensed court interpreter. It also shows what minimum criteria an unlicensed court interpreter must meet to interpret in a Texas court proceeding.

⁸42 U.S.C. § 2000, *et seq*

⁹ 28 C.F.R. § 42.104(b)(1) (Aug. 26, 2003).

¹⁰ 28 C.F.R. §§ 42.104(b)(2), 42.203(e) (1966).

¹¹ *Lau v. Nichols*, 414 U.S. 563, 569 (1974).

¹² *Id.* at 41,463.

¹³ *Id.* at 41,462.

¹⁴ There are two types of licenses for Texas court interpreters: a basic license that authorizes you to interpret in municipal and justice courts, and a master license that authorizes you to interpret in any Texas court. When you hire a licensed interpreter, be sure they hold the appropriate license for your court.

Step One: Are you required to appoint an interpreter?

| When to Appoint an Interpreter According to Tex. Gov. Code § 57.002 | |
|---|--|
| Court must appoint an interpreter | Court may appoint an interpreter |
| When a party files a motion for an interpreter or a witness requests an interpreter in a civil or criminal proceeding. ^{15 16} | Upon its own motion for an LEP person. ¹⁷ |

Step Two: Does the interpreter have to be licensed? If not, what criteria must the interpreter meet?

| Appointing a Licensed v. Unlicensed Court Interpreter According to Tex. Gov. Code § 57.002 | | | |
|---|---|--|--|
| | County with population of at least 50,000 ¹⁸ | County with a population under 50,000 | County to which Section 21.021 of Tex. Civ. Prac. Rem. Code applies ¹⁹ |
| Must appoint a licensed court interpreter | When language is Spanish | No | No |
| May appoint an unlicensed court interpreter | <ol style="list-style-type: none"> 1. When language is not Spanish; 2. The judge makes a finding that there is no licensed court | If the interpreter is: <ol style="list-style-type: none"> a. qualified by the court as an expert under the Texas Rules of Evidence; | If the interpreter is: <ol style="list-style-type: none"> a. qualified by the court as an expert under the Texas Rules of Evidence; |

¹⁵ Tex. Gov. Code. Sec. 57.002(a).

¹⁶ Tex. Gov. Code Sec. 57.001(7) states a “court proceeding” “includes an arraignment, deposition, mediation, court-ordered arbitration, or other form of alternative dispute resolution.”

¹⁷ Tex. Gov. Code Sec. 57.002(b). Note the statute does not specify that the person must be a party or a witness. An example of a situation where a court may elect to appoint an interpreter for an LEP person who is not a party or witness is when the parent of a minor who is a party or witness has limited English proficiency and needs an interpreter to comprehend the proceeding affecting his or her child. In some cases involving minors, state law includes parents and guardians in the definition of “party” or “plaintiff,” but the court may appoint an interpreter for the parent even in cases where they are not explicitly a “party.”

¹⁸ The counties with a population over 50,000 that aren’t subject to Tex. Civ. Prac. Rem. Code Sec. 21.021 are Anderson, Angelina, Bastrop, Bell, Bexar, Bowie, Brazoria, Brazos, Cherokee, Collin, Comal, Coryell, Dallas, Denton, Ector,* Ellis, Fort Bend, Grayson, Gregg, Guadalupe, Hardin,* Harris, Harrison, Hays, Henderson, Hood, Hunt, Johnson, Kaufman, Kerr,* Liberty, Lubbock, McClennan, Midland, Montgomery, Nacogdoches, Orange, Parker, Potter, Randall, Rockwall, Rusk, San Patricio, Smith, Tarrant, Taylor, Tom Green, Travis, Van Zandt, Victoria, Walker, Wichita Williamson, and Wise. Those denoted with an asterisk were added to the list based on 2017 5-year estimates from the Census Bureau. All other counties already had a population of at least 50,000 in 2010 when the last census was completed.

¹⁹ At this time, Sec. 21.021 applies to Cameron, Culberson, El Paso, Galveston, Hidalgo, Hudspeth, Jefferson, Maverick, Nueces, Starr, Terrell, Val Verde, Webb, and Zavala counties.

| | | | |
|--|--|--|--|
| | <p>interpreter available within 75 miles; and</p> <p>3. If the interpreter is:</p> <p>a. qualified by the court as an expert under the Texas Rules of Evidence;</p> <p>b. at least 18 years of age; and</p> <p>c. not a party to the proceeding.</p> | <p>b. at least 18 years of age; and</p> <p>c. not a party to the proceeding.</p> | <p>b. at least 18 years of age; and</p> <p>c. not a party to the proceeding.</p> |
|--|--|--|--|

Code of Criminal Procedure 38.30

Requires a court to appoint an interpreter upon a party’s motion or upon the court’s motion if the accused or a witness does not have English proficiency.²⁰ Before Section 57.002 became law, “any person” could be appointed as an interpreter in criminal proceedings regardless of their qualifications. However, as of 2001, when a court appoints an interpreter in a criminal proceeding, the interpreter must fulfill the requirements of 57.002.²¹ The statute also requires the county to pay for the interpreter in criminal proceedings.

Texas Rule of Civil Procedure 183

A court may appoint an interpreter and may tax the interpreter fee as costs unless the law provides otherwise or the litigant has filed an uncontested Statement of Inability to Afford Costs pursuant to Tex. R. Civ. Proc. 145.

Texas Rule of Civil Procedure 145

A party who files a Statement of Inability to Afford Payment of Court Costs cannot be required to pay costs except by order of the court supported by detailed findings that the declarant can afford to pay costs issued after an oral evidentiary hearing. “Costs” as defined by Rule 145 include the fees

²⁰ Tex. Code of Crim. Proc. Art. 38.30(a).

²¹ *Ridge v. State*, 205 S.W.3d 591, 596-597 (Tex. App.—Waco 2006, pet. ref’d) (holding that a trial court has an independent duty to appoint a *licensed* interpreter if the court is made aware that a defendant or witness does not understand the English language, unless the defendant expressly waives the right to a *licensed* interpreter); *Franco v. State*, No. 04–16–00090–CR, 2017 WL 781033 at *1-*2 (Tex. App.—San Antonio 2017, pet. ref’d) (the appointment of an interpreter by a trial court is governed by section 57.002 of the Texas Government Code and article 38.30 of the Texas Code of Criminal Procedure). *See also* Op. Tex. Att’y Gen. No. JC-0584 (2001) (concluding that when a court appoints a spoken-language interpreter in a criminal case, chapter 57 establishes the requisite interpreter qualifications. Therefore, the interpreter must be licensed under chapter 57 unless the section 57.002(c) exception applies.).

for an interpreter or translator. Therefore, LEP parties who file a Statement of Inability to Afford Payment of Court Costs must not be charged for the language assistance services they need to have meaningful access to the court.

3. Remote Hearings

Zoom

Interpretation can be provided remotely in virtual proceedings on Zoom both simultaneously and consecutively.²² Zoom allows for simultaneous interpretation by providing a separate audio channel that only the LEP person will hear. You can also use “breakout” rooms when an interpreter is needed for an attorney and client to have a private conversation during a proceeding. See Appendix C, *How to Use Simultaneous Interpretation in Zoom Proceedings* for detailed instructions about remote interpretation in Zoom for more information about scheduling the proceeding with an interpreter and using the interpreter controls during the proceeding.

What to do Before the Proceeding

- **Notice** – As mentioned in the *Best Practices for Court in Zoom Hearings Involving SRLs*, include with your notice Spanish (and any other languages common in your jurisdiction) instructions about how to contact the court for language assistance. Using an interpreter [icon](#) can also help LEP persons who speak languages other than Spanish or who have low literacy. Language assistance may include translation or sight translation of the notice and interpretation for the proceeding(s).
- **The LEP Person** – When you learn an LEP person will need an interpreter for a remote proceeding, confirm their preferred language to ensure you select an interpreter that will be able to communicate with them. Be sure to find out if they need any specific dialect. Some languages vary greatly between dialects. Also determine if the person has the technology they need to participate remotely. The simultaneous interpretation feature in Zoom will only work if the LEP person is able to join via the internet through a computer or other device. **It will not work if they call in over the phone.** They will need stable access to the internet and the latest version of Zoom to participate.²³ If they don't, you can still use a remote interpreter via Zoom, but the interpretation will need to be consecutive instead of simultaneous and you will need to plan for a longer proceeding.
- **The Interpreter**
 - **Selecting an Interpreter:** After confirming the preferred language of the LEP person, you will need to select an interpreter. If you already have an interpreter for your court in the language you need, this will be easy. If not, you may be able to find an interpreter through an existing contract your court or county already has, or you may need to hire an interpreter independently. If the language is Spanish and the proceeding is going to be short, you can use OCA's [Texas Court Remote Interpreter Service \(TCRIS\)](#) to schedule a free interpreter. For remote proceedings you also have the option of hiring licensed interpreters [from anywhere in the state](#).²⁴ Similarly,

²² Most Texas courts are using Zoom for remote proceeding so we are focusing on Zoom here. If your court is using a different platform such as WebEx and you need help developing protocols for remote interpretation, you may contact the Texas Access to Justice Commission by emailing atjmail@texasatj.org.

²³ Some of the earlier versions of Zoom do not include the interpreter function.

²⁴ Other options for finding competent interpreters are the [Texas Association of Judiciary Interpreters and Translators](#), [Metroplex Interpreters and Translators Association](#), [Houston Interpreters and Translators Association](#),

where the law allows you to hire an unlicensed interpreter and a licensed one is not available, you can [hire an interpreter from anywhere](#) without incurring travel costs. Just remember that even unlicensed interpreters must meet the minimum requirements in Section 57.002.

- Sample Questions to Help Assess Interpreters: These questions can be used to assess an interpreter you are considering hiring for a proceeding or to assess an interpreter prior to appointing them and swearing them in during the proceeding.²⁵
 - Are you a Texas licensed court interpreter?
 - What is your license level and number?
 - How long have you been an interpreter?
 - How many times have you interpreted in court?
 - What credentials or specialized training do you hold?
 - Describe the [Texas Code of Ethics and Professional Responsibility for Licensed Court Interpreters](#).
- Best Practice Tip: Please note that if the proceeding is expected to be long or complex, the best practice is to hire two interpreters to interpret as a team by switching off approximately every 30 minutes. This is because the cognitive load of interpreting for long stretches is very taxing and the longer an interpreter interprets, the more likely they are to make mistakes. In fact, the accuracy of most interpreters begins to show a measurable decline after 30 minutes of interpreting. The cognitive load of remote interpretation is even higher than on-site interpretation, so team interpretation may be even more useful for longer remote proceedings. Taking regular breaks is another option if you are unable to use an interpreter team for a long or complex proceeding.
- Technology Needs for Interpreter: In addition to ensuring that the interpreter you select meets the requirements of Section 57.002, for remote proceedings you will also want to ensure that they have what they need to minimize the chances of any problems with the technology that could cause a delay. For example, they will need a computer or other device, webcam, headset and the latest version of Zoom on their device, as well as stable internet access and a place to work with minimal background noise and distractions. If they have never used Zoom for remote interpretation before, you may wish to arrange a practice run with them prior to the proceeding to ensure everything is going to work properly.²⁶
- Provide Pleadings or Documents: Provide the interpreter with the pleadings or other documents that are relevant to the proceeding to familiarize themselves with names, parties, and unique vocabulary.
- Inform Litigant: Once you have arranged for the interpreter, let the litigant know in their preferred language that you have done so. Knowing there will be an interpreter can help reduce the anxiety for the litigant and give them an opportunity to focus on other aspects of preparing for their proceeding.

[El Paso Interpreters and Translators Association](#), [Austin Area Translators and Interpreters Association](#), [National Association of Judiciary Interpreters and Translators](#), and [American Translators Association](#).

²⁵ Here is an example video of assessing an interpreter prior to appointing them and swearing them in: [Example of Court Interpreter's Interview to Verify Credentials](#).

²⁶ You may wish to share this video from the University of Arizona National Center for Interpretation with the interpreter. It is geared toward interpreters and provides a detailed explanation of using Zoom for remote interpretation: [Expanding your Toolbox: Using Zoom for Remote Simultaneous Interpreting \(RSI\)](#).

During the Proceeding

- See Appendix C, *How to Use Simultaneous Interpretation in Zoom Proceedings* for detailed information about using the interpretation features and conducting a remote hearing in Zoom.
- Explain the role of the interpreter to the LEP person including the following:
 - The interpreter will interpret everything said in the proceeding with no additions, omissions, explanations, or personal input.
 - The interpreter cannot give advice, make suggestions, or engage in private conversation with the LEP person.
 - The LEP person should raise a hand if s/he has a question or does not understand something during the proceeding rather than asking the interpreter to explain it.
- Perform a sound check including allowing the interpreter and LEP party to assess whether they can hear and understand each other.
- Instruct participants on these best practices before you begin:
 - Speak slowly, clearly, and one at a time. Whenever possible use plain language and avoid “legalese” and unnecessary terms of art.
 - Speak directly to the participants as you normally would in court, not to the interpreter.
 - Do not ask the interpreter to explain or restate what the LEP person said.
 - During consecutive interpretation such as witness testimony, use short, complete sentences and pause after each complete thought to allow for interpretation.
 - Open any statement to the interpreter with “Mr./Ms./Mx. [Interpreter Name]” or “Mr./Ms./Mx. Interpreter” to alert the interpreter that they are being addressed.
 - Encourage the interpreter to request repetitions or clarifications as needed throughout the proceeding.
 - Attorneys representing LEP litigants may use a Zoom breakout room to consult with their client if necessary. If they need an interpreter, the interpreter will be able to join them in the breakout room.
 - Immediately alert the court if they are unable to hear or understand the participant who is speaking, or if the equipment they are using is not working properly.
 - Instruct all participants about what to do if they get disconnected due to a problem with the internet or other technology including providing contact information for a staff person who will be responsive if needed.
 - Give basic instructions about what the participants can expect and need to do to use the interpreter mode in Zoom.
- Ask the interpreter to say and spell their name for the record and what type of license they hold, if any, and to state their license number for the record.
- Administer the interpreter’s oath.²⁷
- Red Flags: During simultaneous interpretation only the LEP person will hear the interpretation, but during consecutive interpretation be aware of these red flags that may indicate poor quality interpretation:
 - The interpretation is much longer or much shorter than what was said in the source language.

²⁷ Tex. R. Evidence 604 requires that interpreters are qualified and take an oath. Sample 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 the Code of Ethics and Professional Responsibility; follow all official guidelines established by this court for legal interpreting; and discharge all of the duties and obligations of legal interpretation?”

- The LEP person repeatedly asks for repetition or clarification.
 - The LEP person appears to be correcting or disagreeing with the interpreter.
 - The LEP person attempts to speak in English without using the interpreter.
 - The interpreter doesn't seem to have a strong command of English.
 - There are non-verbal cues on the part of the interpreter or LEP person that indicate there is some sort of problem.
 - The interpreter doesn't appear to take notes, especially for names, numbers, and long segments of speech.
 - The interpreter seems to be engaging in side conversations.
 - The interpreter has an inappropriate facial expression or tone. This could indicate the interpreter is not neutral or is biased in some way that could affect the accuracy of the interpretation.
 - The interpreter answers for the LEP person or attempts to explain or elaborate on the LEP person's answer.
 - The interpreter attempts to modify or discredit the LEP person's answer.
 - The LEP person appears unusually uncomfortable or confused or has an inappropriate facial expression or tone.
- **When Party or Witness Has Difficulty Communicating:** If you are in a proceeding without an interpreter and a litigant or witness is having difficulty communicating, these are some questions you can ask to assess whether an interpreter may be needed. Avoid questions that can be answered with a yes or no and try using questions that are slightly more complex to approximate the type of language that is common in court. If the person has difficulty answering these questions in a meaningful way, an interpreter is recommended.
 - Please tell the court your name.
 - How did you arrive at court today?
 - In what language do you feel most comfortable speaking and communicating?
 - Tell me about your education.
 - How comfortable are you proceeding with the matter as we are communicating now?
 - What is the purpose of your court hearing today?
 - To help me evaluate your English language proficiency, would you be willing to describe for me a scenario in which you may have found it challenging to communicate effectively in spite of familiarity with the content?

After the Proceeding

If there is a written decision or order, especially one that prohibits or compels action of any kind, enumerates rights or responsibilities, or requires a response or action to be taken, it is probably a vital document that needs to be translated for the LEP person.²⁸

²⁸ See *State of Vermont v. Onix Fonseca-Citron*, No. 2018-197 (Vt. June 12, 2020) (order granting Defendant's request for translation of the Supreme Court's opinion affirming his conviction pursuant to Title VI of the Civil Rights Act of 1964). See also Michael W. Finigan, Ph.D. and Theresa Herrera Allen, Ph.D., Evaluation of the Introduction of Plain Language Forms with a Spanish Translation in Two Family Court Settings (October 2016), https://richardzorza.files.wordpress.com/2016/11/plain-language-report_10-24-16.pdf (Spanish-speakers in Travis County, Texas who did not receive their protective orders in Spanish were three times more likely to violate them than those who received their order in Spanish. The reduction in enforcement proceedings saved the court over \$100,000 in a six week period.)

Appendix C

How to Use Simultaneous Interpretation in Zoom Proceedings

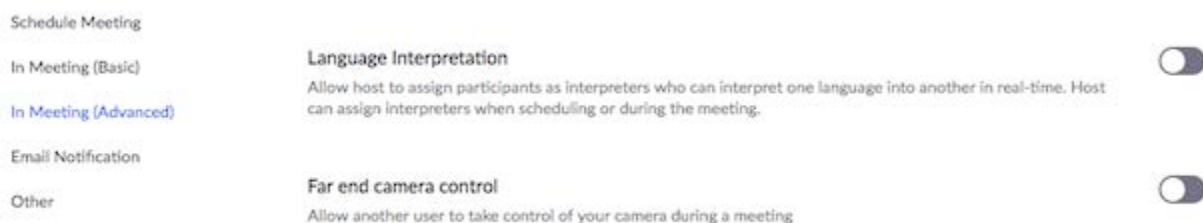
1. Simultaneous Interpretation Function²⁹

Zoom offers a language interpretation feature that allows interpreters to interpret in the simultaneous mode³⁰ while the LEP individual listens to the interpretation on a separate audio channel. When this feature is enabled, the other participants do not hear the interpretation.³¹

2. Language Interpretation Setup

To allow Hosts/Schedulers of meetings on your Zoom account to use the interpretation features, enable these features in your account settings.

- Sign in to the Zoom web portal and click Settings.
- Enable Language Interpretation under the In Meeting (Advanced) heading.



3. Scheduling a Proceeding with an Interpreter

- Navigate to Meetings and click Schedule a New Meeting.
- Click Generate Automatically next to Meeting ID. This setting is required for language interpretation.
- Check the box to Enable Language Interpretation for the meeting.
- If you do not know whom the assigned interpreter will be, just click “Schedule” for now.

²⁹ Prerequisites

Business, Education, or Enterprise Account; or Webinar add-on plan

Zoom Desktop Client

Windows: 4.5.3261.0825 or higher

macOS: 4.5.3261.0825 or higher

Zoom Mobile App

Android: 4.5.3261.0825 or higher

iOS: 4.5.0 (3261.0825) or higher

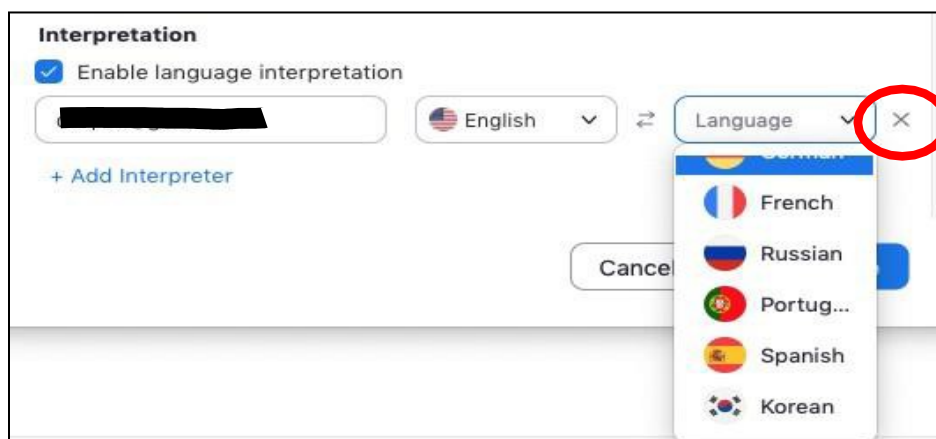
Meeting with an automatically generated meeting ID

³⁰ Simultaneous interpretation is a competent interpreter listening to something in one language (source language) and orally translating it into another language (target language) in real-time without pauses. Consecutive interpretation is a competent interpreter listening to something in one language (source language) and orally translating it into another language (target language) while the speaker pauses to allow for the interpretation before continuing.

³¹ This video demonstrates most of what is covered in these instructions: [Using Zoom's Interpretation Features](#).



- If you know whom the interpreter will be, click “+ Add Interpreter” to display the screen below. Enter the interpreter’s email address and the language in the second dropdown box keeping the first dropdown box as English. The interpreter will need to log on with the same email address you enter here, so you may want to confirm that this is the correct email address for their Zoom account.³² Click “Schedule” when done.



You can also click the “X” to close out these fields and then click “Schedule.” You MUST remember to send the interpreter a Zoom meeting invitation along with the rest of the invitees.

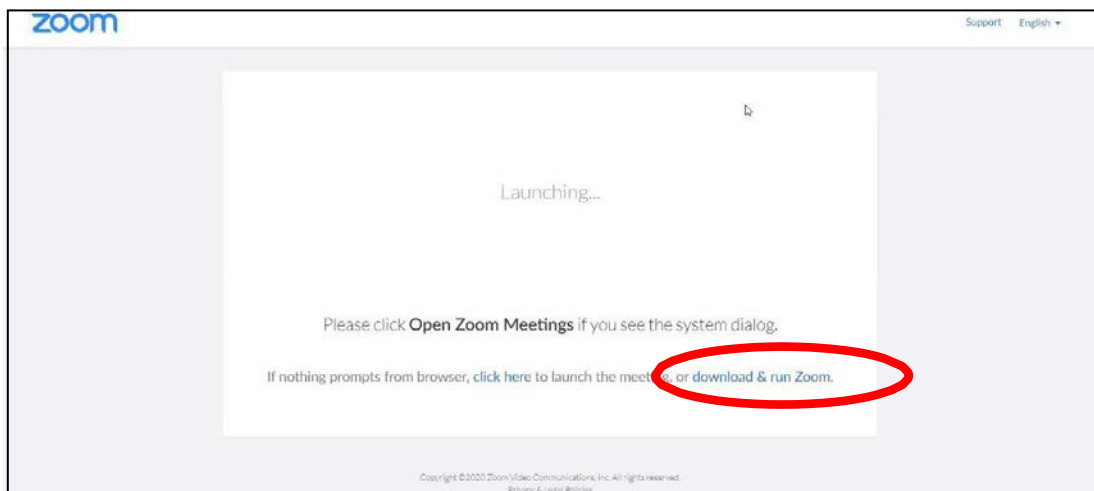
NOTE: Zoom has several pre-set language choices including Chinese, Japanese, German, French, Russian, Portuguese, Spanish, and Korean. If you need a language other than one of these choices, you will need to designate one of these languages as a “catch-all” language. In other words, you can use the interpretation feature even if your language isn’t listed, but you will need to be sure everyone involved knows that the controls in Zoom will list a different language than what the interpreter will actually be interpreting to ensure that everyone selects the correct options in the following steps.

4. Joining the Zoom Proceeding

Joining a Zoom proceeding that will involve interpretation works just like joining any other Zoom proceeding. The best practice is to download and log into the latest version of Zoom prior to the

³² Interpreters may use the interpreter features with a Basic (free) account as long as the Host has the prerequisite Zoom service. See fn 1.

proceeding, but it is possible to download and run Zoom when the meeting is launching.



If any of the following situations occur, Zoom’s simultaneous interpretation function **WILL NOT** work and you will need to conduct the hearing with the interpreter using the consecutive mode:

- Participant joins by telephone only (no video).
- Participant joins by Zoom for video but is using a telephone for audio.
- Participant joins through the meeting link via their web browser.
- Participant joins using a Chromebook.³³

5. Getting Started

Once the hearing begins but before the Host enables the simultaneous interpretation function, the Host should provide instructions to all participants explaining what they will need to do. Following is an example:

- Go on the record and call the case.
- The Interpreter
 - Ask the interpreter to say and spell their name for the record.
 - Ask the interpreter what type of license they hold, if any, and to state their license number for the record.
 - If they are unlicensed, ask them a short set of questions to establish they meet the requirements of Section 57.002.³⁴
 - Administer the interpreter’s oath.³⁵
 - Give participants instructions. The interpreter will interpret these in consecutive mode.

³³ This functionality may be added for Chromebook, but is not available at publication.

³⁴ Under Tex. Gov. Code § 57.002, even when you are allowed to appoint an unlicensed interpreter to interpret a court proceeding, that interpreter must still be qualified by the court as an expert under the Texas Rules of Evidence; at least 18 years of age; and not a party to the proceeding. [Here](#) is an example of how it is done in federal court that could easily be adapted for Texas courts and the requirements of § 57.002.

³⁵ Tex. R. Evidence 604 requires that interpreters are qualified and take an oath. Sample 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 the Code of Ethics and Professional Responsibility; follow all official guidelines established by this court for legal interpreting; and discharge all of the duties and obligations of legal interpretation?”

- *“The Court will be using the services of a remote court interpreter.” [pause for interpretation]*
- *“Once I turn on the simultaneous interpretation function, the only person who will hear the interpretation will be Mr./Ms./Mx. [LEP Person].” [pause for interpretation]*
- *“The role of the interpreter is to interpret everything said in the proceeding with no additions, omissions, explanations, or personal input. [pause for interpretation]*
- *The interpreter cannot give advice, make suggestions, or engage in private conversation with you Mr./Ms./Mx. [LEP Person] or with anyone else. [pause for interpretation]*
- *Mr./Ms./Mx. [LEP Person], Raise your hand to let us/your attorney know if you have a question or do not understand something during the proceeding. Please do not ask the interpreter to explain it to you or for any advice.” [pause for interpretation]*
- *“Mr./Ms./Mx. Interpreter, after the interpretation function is turned on you will see a welcome screen that says ‘You’ve been assigned as an interpreter’ and you should click ‘OK.’” [pause for interpretation]*
- *Once you click OK, you should see a screen that will allow you to switch back and forth between [non-English language] and English. [pause for interpretation]*
- *When you are on the [non-English] channel, only Mr./Ms./Mx. LEP person will hear you. [pause for interpretation]*
- *If you need to ask for repetition or clarification or need us to pause or anything else, please raise your hand and switch to the English channel to address the Court. [pause for interpretation]*
- *Whenever you are on the English channel, please interpret in the consecutive mode [pause for interpretation]*
- *“For the rest of you, if you’re joining on a computer, you should see a notification that says ‘Interpretation is available’ over an ‘Interpretation’ icon that looks like a globe.” [pause for interpretation]*
- *“If you’re joining on a smart phone, you may find the ‘Language Interpretation’ option under ‘More’ over some dots.” [pause for interpretation]*
- *“Everyone must click on the interpretation icon to select your preferred language.” [pause for interpretation]*
- *“Mr./Ms./Mx. [LEP Individual], you should click on the “[Non-English language]” which will be the [2nd/ 3rd/etc.] on the list of options. [pause for interpretation]*
- *“Once I turn on the simultaneous interpretation you will hear us speaking English in the background at about 20% volume and you will hear the interpreter at*

about 80% volume over that. [pause for interpretation]

- *If you prefer to hear only the interpreter, there is an option to “mute original audio” right under where you select [Non-English language]. Once I turn on the simultaneous interpretation, let us know if you have any trouble getting it to work the way you want it to. [pause for interpretation]*
- *“Everyone else should click ‘English.’” [pause for interpretation]*
- *Before I turn on the simultaneous interpretation, does anyone have any questions about what I’ve said so far? [pause for interpretation]*
- *“I’m going to turn on the simultaneous interpretation function now.” [pause for interpretation]*

▪ **Enable the Simultaneous Interpretation function.**

- *[Once the simultaneous interpretation is on and you have given everyone a moment to select the appropriate options] Confirm all the participants can hear. “Can everyone hear the language that they selected? Please raise your hand if you can hear the language you want to hear.”*
- *If everyone can hear, begin with some additional instructions regarding interpretation. “Now that we are in simultaneous mode, I want to give some brief additional instructions to help make this go as smoothly as possible.”*
- *Speak slowly, clearly, and one at a time. Whenever possible use plain language and avoid “legalese” and unnecessary terms of art.*
- *Speak directly to the person you are addressing as you normally would in court, not to the interpreter.*
- *Do not ask the interpreter to explain or restate what Mr./Ms./Mx. [LEP individual] said.*
- *During consecutive interpretation such as witness testimony, use short, complete sentences and pause after each complete thought to allow for interpretation.*
- *Open any statement to the interpreter with “Mr./Ms./Mx. [Interpreter Name]” or “Mr./Ms./Mx. Interpreter” to alert the interpreter that they are being addressed.*
- *[If there is an attorney representing the LEP individual] Mr./Ms./Mx. [Attorney name], if you need to confer with your client, please raise your hand to let us know. You can use a breakout room. If you need the interpreter to join you, please let us know. Only consecutive interpretation mode is available in the breakout rooms.*
- *Immediately raise your hand if you are unable to hear or understand the person speaking, or if the equipment you are using is not working properly.*
- *[Instruct all participants about what to do if they get disconnected due to a*

problem with the internet or other technology including providing contact information for a staff person who will be responsive if needed.]

o Begin the proceeding as you normally would.

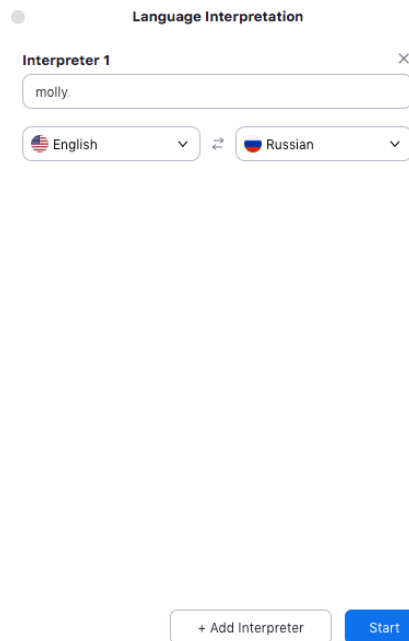
6. Enabling the Simultaneous Interpretation Function

The simultaneous interpretation option appears at the bottom of the Host’s screen as an icon that looks like a globe. **Only the Host can enable this function, not a Co-Host.**

Host’s Screen



When the Host clicks on the “Interpretation” icon, a “Language Interpretation” screen will pop-up. The Host should start typing the name of the interpreter, which should populate the interpreter field or display a dropdown list of choices.



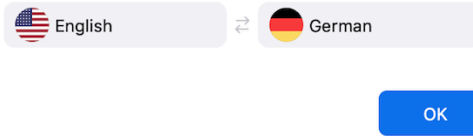
Once the interpreter’s name appears in the interpreter field, the Host must select the appropriate non-English language and then click “Start.” The Host can assign multiple interpreters as needed.

Interpreter’s Screen

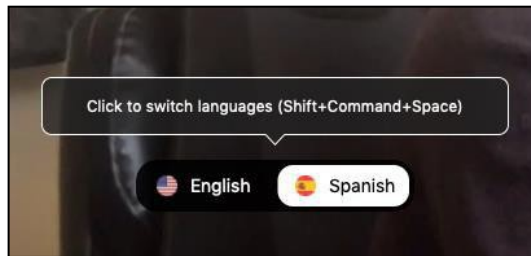
After the Host clicks “Start,” the interpreter will see a Welcome screen that is visible only to the interpreter. When the interpreter clicks “OK,” Zoom automatically chooses the non-English language for them.

Welcome

You have been assigned as an interpreter.

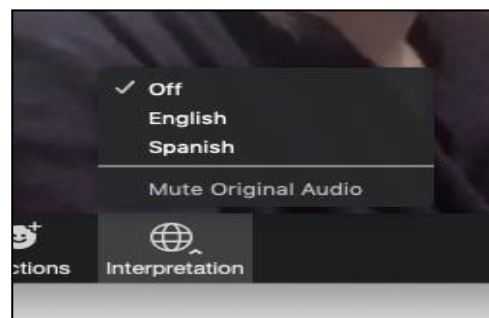
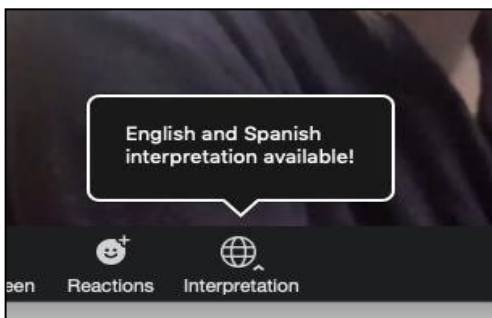


After the interpreter clicks “OK,” the interpreter sees a screen that allows them to toggle back and forth between English and the non-English language audio channels.



Participant’s Computer Screen

Once the simultaneous interpretation feature has been activated by the Host, the other Participants will see a pop-up notice on their screens indicating, “interpretation is available” or “language interpretation.” The Host should remind participants of the instructions to click on the Interpretation icon (not the message bubble) to select their preferred language.



Participant's Smart Phone Screen

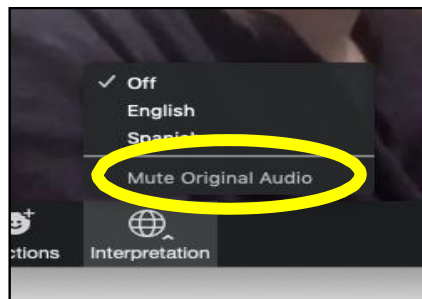


The court, staff, and attorneys should choose “English” while the LEP individual chooses the [Non-English] language. Once all of the participants have chosen their preferred language channel, simultaneous interpreting can begin.

Confirm all the participants can hear by saying, “Can everyone hear the language that they selected? Please raise your hand if you can hear.” Instruct participants to alert the Court if anybody has difficulties hearing by raising their hand at any point during the proceeding.

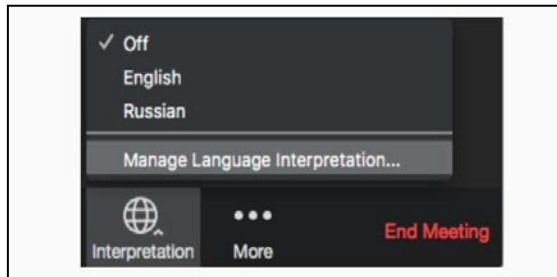
During the Hearing

When the simultaneous interpreting function is on, the interpretation will not be audible to anyone except the LEP individual and anyone else who has selected the non-English audio channel. The LEP individual should hear the English speakers at about 20% volume while the interpretation will be heard at about 80% volume. It may be helpful for the court to inform the LEP individual that if they want to hear only the interpretation, they can click “Mute Original Audio.”

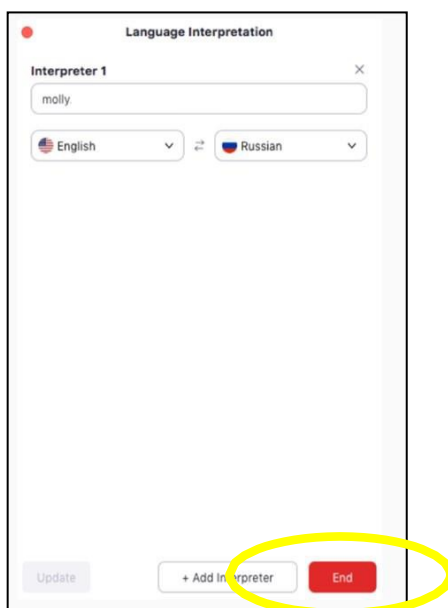


Ending the Simultaneous Interpreting Option

To stop the Simultaneous Interpretation function at any time, the Host can click the “Interpretation” icon and choose “Manage Language Interpretation.”



Once the language interpretation screen is displayed, the Host should click “End” to stop the interpretation. The Host can stop and restart the interpretation function as often as necessary. Interpretation should be in consecutive mode when the simultaneous function is turned off.



Livestreaming on YouTube

If the court is planning on livestreaming the proceeding on YouTube and the simultaneous interpretation function is enabled, viewers will NOT be able to hear the interpretation audio channel, only the original audio channel. Cloud recordings will also only record the original audio, not the interpreter audio channel. Proceedings recorded on a local computer will record any audio channels that the person recording it can hear.

Breakout Rooms

If the court needs to send an attorney and their LEP client into a breakout room with the interpreter, the simultaneous interpretation function will not work in the breakout room. Before sending participants into a breakout room, the Host should turn off the interpretation function as described above. Interpretation in a breakout room will be conducted in the consecutive mode, which is the method that mimics an in-person encounter. If the simultaneous interpretation feature is needed after participants return from the breakout room, the Host can turn the feature back on and instruct participants to choose their audio channel again.

Two Interpreters Working as a Team

Two interpreters working as a team can share one audio channel and switch off while interpreting in the simultaneous mode. Both the active and resting interpreter will listen to the English speakers and switch off as needed with only one interpreter interpreting at a time. When interpreters are working as a team, they are not able to hear the other interpreter's interpretation. It may be helpful for them to have an opportunity to communicate prior to the proceeding to agree on how they will communicate and switch off. They may need to pause the proceedings for a moment while they switch off.