

DISABILITY JUSTICE

Q&A: Rights of People Disabilities in State and County Courts

Title II of the Americans with Disabilities Act (ADA) applies to places of state and local government, including state and county courts. Title II ensures that members of the public with disabilities have equal access to court hearings and processes. A different title of the ADA applies if you are an employee of a state or county court, and this handout does not cover the rights of employees with disabilities. If you are seeking information as an employee, please refer to Disability Justice's [Disability Rights in Employment Toolkit](#).

Who is covered as a person with a disability?

Under the ADA disability is defined as:

- 1) Having a health condition that affects your body, mind, or both in ways that keep you from working, learning, moving, talking, sensing, or doing other things the same way as most other people;¹ or
- 2) Having a record of such a health condition in the past (like if you once needed a wheelchair but have recovered with physical therapy); or
- 3) Being regarded as having a disability by someone who treats you differently because of that belief even if you do not have a disability.²

What are my rights as a person with a disability?

Fortunately, the ADA says you have the right to participate in and benefit from the same programs, services, and activities as people without disabilities. To ensure equality, state and county courts may need to give you reasonable accommodations if you have a disability or if your former disability still impacts your life.

A reasonable accommodation can be a modification to a policy or procedure or the provision of an aid or service that someone without disabilities wouldn't get. Some examples of this could be hiring an American Sign Language (ASL) interpreter or giving you breaks or additional time to process information during a court proceeding.

If you used to have a disability but no longer do, the court may still have to provide reasonable accommodations so that your former disability will not impede your access to the court program or process in which you are engaged. For example, if you previously had cancer and need preventive surgery to stop it from returning, you may be able to delay reporting for jury duty until after you recover from that surgery.

¹ Either you can't do one of these things at all, or you can do them, but it is more difficult than it would be for other people. An impairment is still substantially limiting even if there are ways to cure the limitation, with the exception of ordinary eyeglasses and contact lenses. For example, someone who takes medication for their mental health disability is still protected as a person with a disability even if the medication eliminates the effects of the mental health disability.

² Being "regarded as" a person with a disability may mean someone discriminated against you, but it does not give you the right to get accommodations for a disability you don't really have.

Courts are also required to provide people with hearing, speech, or visual disabilities with effective communication. This means that the court would be required to provide an accommodation such as CART captioning, large print text, or speech-to-speech transliterators.

Does my role in the court program or process matter?

Generally, no. Both courtroom professionals and short-term visitors (visiting lawyers, jurors, potential jurors, witnesses, people accused of a crime, the parties in a case,³ courtroom observers, etc.) may be entitled to reasonable accommodations. As noted above, the rights of employees are not outlined in this handout, so if you are an employee of the court you should refer to the Disability Justice's Disability Rights in Employment Toolkit instead of this handout.

What accommodations can I ask for?

If you're not sure what types of accommodations might help you, we would suggest checking out the A to Z of Disabilities and Accommodations (askjan.org). Although this list was compiled based on accommodations in a workplace, the accommodations suggested may also be appropriate in the court context. It is important to note, however, that whether a court has to grant a specific accommodation is determined on a case-by-case basis.

Do I have to pay for anything I need because of my disability?

You do not have to pay for anything related to your disability if it is considered a reasonable accommodation. Some examples of common reasonable accommodations are outlined above. You should note, however, that the court does not have to pay for items that are personal in nature. For example, a court would not have to pay for your wheelchair, prescription glasses, hearing aids, service animal expenses, personal doctors, or anything else you regularly use while not participating in a court program.

How do I ask for an accommodation?

Contact either the ADA coordinator or, if you have been summoned to court to serve on a jury, the jury commissioner in the area you live. Their names, contact information, and the courts and counties they work in are available here:

- [ADA Coordinators](#)
- [Jury Commissioners](#)

You should tell them what your disability is, what service or accommodation you need, and when and where you need the accommodation. You should also explain why the accommodation will enable you to equally access the court proceeding or program in light of your disability.

When should I ask for an accommodation?

As soon as you know you will be involved in a court program or process and need accommodations, you should contact the ADA coordinator or jury commissioner. The court often needs at least five business days to make their decision and get the accommodation in place if they agree to provide one.

³ Such as a responding parent in a child welfare case or a plaintiff and a defendant in a lawsuit.

Can the court decide to give me a different accommodation than the one I requested?

Maybe. Court officials must consider giving you the exact accommodation you want, but they do not necessarily have to give you that accommodation if something else works just as well (considered equally effective under the law). For example, if you want a wheelchair ramp built to enter one courtroom, but other courtrooms in the building already have such ramps, the staff will probably move the proceeding to a room with a ramp rather than grant your original request to build a new ramp.

However, sometimes the alternate accommodation the court gives you may not actually help you, and you may need to explain that to them. To avoid this, when you first request a service, make it clear why you want that accommodation and not another one.

Can the court refuse to give me an accommodation because it will be difficult for them to provide?

Maybe. These determinations are made on a case-by-case basis. You may not get the accommodation you ask for if providing it will be an *undue burden*, meaning it will take too much money or time to provide. For example, it would likely be considered an undue administrative burden to provide a courtroom spectator with an accommodation if they requested it the day of the hearing, and accommodating the spectator would require rescheduling the parties, attorneys, and witnesses.

The court is also not required to provide an accommodation if doing so would be a *fundamental alteration* that radically changes the nature of the program or activity. For example, allowing a parent with a disability who is the respondent in a child welfare case to miss every court appearance would likely be considered a fundamental alteration because the appearance of the parties themselves is critical to child welfare cases.

Can a court refuse to let me take part in a trial or other court program because of my disability?

It depends. If you could perform the essential functions of your role with or without a reasonable accommodation, then a court cannot exclude you. It is okay if your disability affects what you do for the program, so long as you are still able to perform the essential functions of your role. For example, people who are blind or deaf can serve on juries or be judges, even though many judges and juries decide things based on what they see and hear.

If I communicate through American Sign Language, who can be my interpreter?

Your interpreter must be qualified to interpret in a legal setting. None of your friends or relatives can be your interpreter, even if they volunteer. For more information, you can go to [Legal Auxiliary Services – Colorado Commission for the Deaf, Hard of Hearing & DeafBlind](#).

Can I have a service animal with me?

Yes. If your service animal is under your control and housebroken, you can bring it into courthouses or other buildings, even when the rules say someone else gets to decide if you can bring an animal with you. For more information about service animals, check out the “State/Local Government & Places of Public Accommodation” section in [DLC Service Animal Toolkit](#).

What can I do if a court won't give me the accommodation I want?

You can file an appeal with the court's [ADA coordinator](#) within sixty days after the court denies your request. To do this, fill out a [complaint form](#) and send it to the coordinator along with a copy of the message you got denying your accommodation.

If this does not give you either the help you asked for or a good explanation for why you can't get it, you can file a complaint with the Department of Justice (DOJ). The complaint must be filed within **180 days** of the date you were denied the accommodation. More information about the DOJ process can be found [here](#).

You can also file a complaint with the Colorado Civil Rights Division (CCRD). The complaint must be filed within **60 days** of the date you were denied the accommodation. More information about the CCRD process can be found [here](#).

Where can I go to for more information?

- [ADA Information Line | ADA.gov](#)
- [ADA Update: A Primer for State and Local Governments | ADA.gov](#)
- [Colorado Judicial Branch - ADA Information](#)
- [Colorado Judicial Branch - FAQs](#)
- [Resource Guide for Court Staff](#)

*** DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only. Always consult a lawyer if you have questions about your legal rights. ***

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