



NEW HAMPSHIRE JUDICIAL BRANCH

AMERICANS WITH DISABILITIES ACT AND THE COURTS

FREQUENTLY ASKED QUESTIONS

The New Hampshire Judicial System is committed to ensuring that all persons have access to and can fully participate in court proceedings, regardless of disabilities.

Background

The Americans with Disabilities Act was enacted in 1990 to ensure that qualified individuals with disabilities enjoy the same opportunities that are available to persons without disabilities.

The U.S. Department of Justice's regulations include a three-prong definition of "disability": (1) a physical or mental impairment that substantially limits one or more major life activities; (2) a record (or past history) of such an impairment; or (3) being regarded as having a disability.

Individuals Protected by the ADA

The ADA protects qualified individuals with disabilities. An individual is qualified (e.g., to be a witness, juror, or other participant when he or she meets the essential eligibility requirements for participation.

Eligibility requirements for participation in court programs must not unnecessarily exclude persons with disabilities and must not be based on stereotypes, speculation, or arbitrary bases. Instead, the determination of whether a person with a disability is qualified must be made on a case by case basis.

The ADA also provides protections against discrimination for individuals who have a known relationship or association with persons who have disabilities.

When determining whether someone is qualified, courts must take into account whether he or she is qualified with or without (1) reasonable modifications to their policies, practices, and procedures, (2) provision of auxiliary aids or services, and/or (3) removal of architectural and communication barriers.

Activities Covered by the ADA

All services, programs, and activities of a court are covered by Title II. These activities include:

- juror selection;
- trials;
- hearings;
- mediations;
- meetings; and
- access to information, libraries, publications, and websites.

The ADA protects all participants, including parties, witnesses, jurors, observers, attendees at events, and attorneys.

What Accommodations Are Available?

The ADA provides that qualified individuals are entitled to "reasonable accommodations" in order to fully participate in or benefit from a program or service. The appropriate accommodation depends on the circumstances of each case. Among the common accommodations are:

- Assistive listening devices, sign language interpreters, or real time computer-aided transcription services (CART) for persons who are deaf or hard of hearing;
- Audio recordings, Braille or large print materials, magnification software, or a reader for persons who are blind or visually impaired;
- Assistance with filling out forms for persons who have manual impairments;
- Use of a service animal;
- Relocation of a proceeding to an accessible courtroom;
- Modification of court procedures, such as allowing remote appearances and extensions of time for filing papers.

How Can I Make an ADA Request?

The New Hampshire Judicial Branch has created a [form](#) to assist you in

providing the necessary information for the court to consider.

You may speak with the Judicial Branch's ADA Coordinator or court personnel of any court where you need to request an accommodation.

Does My ADA Request Get Filed With a Judge or the ADA Coordinator?

There are two types of accommodations:

Judicial Accommodations are requested through a [motion](#) with the Court. They involve a pending case that could affect the rights of parties to the proceeding or the judge's inherent power to manage the courtroom and proceeding. Examples include extensions of time, frequency breaks during court, or changes to the setup of the courtroom. If necessary, the pleading can be filed *ex parte* (meaning without notice to the other side), but the judge may determine that notice to all parties is necessary.

Administrative Accommodations do not affect the rights of parties or the judge's inherent authority of the court room. Examples include providing assistive listening devices or permitting the use of a service animal in the courthouse.

What Types of Accommodations Will Not Be Provided?

The ADA does not require the courts to provide the following:

- Attorney services;
- Legal research;
- Personal attendant care;
- Personal equipment (wheelchairs, hearing aids);
- Transportation or lodging;
- Support service providers.

What Information Do I Need to Provide?

When you request an

accommodation, you need to identify: (1) what court you will be attending; (2) what business you have in the court (i.e., jury duty, plaintiff in a hearing, attorney in a case); (3) the date when you will need the accommodation; (4) a statement of the impairment that you have that requires an accommodation; and (5) the specific accommodation you are requesting.

The request should be made as far in advance as possible to allow the request to be reviewed and to provide the accommodation if appropriate.

Is There a Cost To Me For The Accommodation?

No. The Judicial Branch will provide the accommodation at no cost to all qualified individuals.

Do I Need to Tell You The Nature of my Disability?

Yes. The request should state the nature of the disability that makes an accommodation necessary and include a suggestion on what would be a reasonable accommodation for disability.

You do not need to provide medical records with your request. The Court may ask you to provide supporting records and/or documentation after reviewing the information provided if such documentation is necessary to process the request.

Does the Court Have to Provide The Accommodation I Request?

Not necessarily - it will depend on whether the accommodation is reasonable. The court will give primary consideration to the request of the individual but may offer an alternative accommodation that allows the individual to effectively participate.

The ADA allows the Judicial Branch to deny a request that would fundamentally alter the nature of the services, programs, or activities or result in an undue financial or administrative burden.

The court will not provide personal

services and devices such as wheelchairs, eyeglasses, or hearing aids, or attorneys.

Can I Bring a Service Animal Into a Courthouse?

A service animal is allowed to accompany a disabled individual in all areas of the building where court users are normally allowed to go. A service animal is a dog, or in some cases a miniature horse, that has been individually trained to do work or perform tasks for an individual with a disability. "Comfort," "therapy," or "emotional support" animals do not meet the definition of a service animal because they have not been trained to do work or perform a specific task related to a person's disabilities.

If I receive Supplemental Security Income or Social Security Disability Income, does that guarantee that my request for an accommodation will be granted?

No. The definition of disability under the Social Security Administration (SSA) is not the same as the definition of disability under the ADA. The SSA defines disability in terms of "inability to perform substantial gainful activity", by which it means "work paying minimum wage or better." The ADA defines it as having, having a record of, or being perceived as having a "physical or mental impairment that substantially limits a major life activity."

Can I Appeal a Denial of My Request for Accommodation?

Yes. If the request for a Judicial Accommodation was denied by a judge in connection with your case, you would appeal the decision in the same manner as any other ruling in the case. This may include the option of filing an Interlocutory Appeal under New Hampshire Supreme Court Rule 8.

If the request was an Administrative Accommodation denied by a Clerk or

ADA Compliance Coordinator, you can request that the denial be reviewed by the administrative head of court to which the request was made. This would be the Chief Justice of the New Hampshire Supreme Court, the Chief Justice of the Superior Court, the Administrative Judge of the Circuit Court, or the Director of the Administrative Office of the Courts. All administrative appeal requests can be sent to the ADA Coordinator.

Can I File a Complaint About Disability Discrimination?

Yes. The Grievance Procedure from a request for an accommodation is set forth at:

<http://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-08/nhjb-grievance-procedure.pdf>

Who Can I Contact for Information About Disability Services?

Disability Rights Center – NH:
www.drcnh.org
603-228-0432
800-834-1721 V/TTY

Governor's Commission on Disability: www.nh.gov/disability
603-271-2773
Toll-Free NH: 800-852-3405

United States Department of Justice – Civil Rights Department:
www.ada.gov
800 - 514 - 0301 (Voice)
800 - 514 - 0383 (TTY)

