



# Serving People with Disabilities and Title II of the ADA: A Toolkit for Courts

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## About this Toolkit

This resource is intended to highlight provisions of Title II of the Americans with Disabilities Act (ADA) to help state courts ensure equal access for people with disabilities. This toolkit is not legal advice and does not give courts direction about case-specific considerations or actions.

Making sure that people with disabilities can use the courts will improve the court system for all court users and improve public trust and confidence in the courts.<sup>1</sup> Thinking about the needs of court users with disabilities will make programs, services, and resources easier to access for all users and will help incorporate access to justice concepts with which courts are already familiar. Some of these include process simplification, use of plain language, navigation and wayfinding strategies, and soliciting user feedback.

**A Note About Language:** This resource uses the term “people with disabilities.” This language is people-first, and reflects that fact that people with disabilities are people with multi-faceted identities, rather than being defined by their disability. However, some people prefer to use the word Disabled when speaking about themselves, to claim disability as part of their identity and to shift negative societal perceptions about disability. Some Disability Justice advocates also advocate for the use of Disabled. When interacting with people with disabilities, it is important to use the language that people use to identify themselves, as this may be different for different people. For more information about disability and language, see the [ADA National Network’s Guidelines for Writing About People With Disabilities](#).

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<sup>1</sup> For more on how accessibility and universal design can improve courts, *see*, Diane Robinson and Zachary Zarnow, *Accessible Courts: Toward Universal Design, Trends in State Courts, 2023*, available at <https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/2572/rec/1> (last visited March 6, 2025).

## Key Ways to Serve People with Disabilities

This toolkit talks about two important ways courts can serve people with disabilities:

1. By developing resources, services, buildings or documents that can be easily used by everyone, including people with disabilities. This will help people with disabilities obtain information and use services or resources with the same amount of time, effort, and assistance as a person without a disability. Examples in the court context include courthouses that are built with ramps and other features to make them navigable to wheelchair users or a video on a court website that includes captioning.
2. By creating accommodations or modifications to an existing service, resource, building or document to help meet the individual needs of a person with a disability. An accommodation is a change in how a program or service is typically delivered. Examples of accommodations in the court setting include providing a sign language interpreter in a court proceeding or self-help center staff physically filling out court forms for a court user who is not able to write because of a disability.

## Part 1: People with Disabilities and Court-Community Relationships

To understand the needs of court users with disabilities and barriers people with disabilities face in a particular community or court setting, courts must prioritize relationships with community members with disabilities as well as with disability justice and advocacy organizations.

People with disabilities are a diverse group with many different experiences and ways of being in the world. Accessibility for one person may not be accessibility for another, even among people with the same or similar disabilities. And an accommodation that works for one person with a particular disability (such as a sign language interpreter for one court user who is Deaf) may not work for another court user with the same or a similar disability (such as another court user who is Deaf). For this reason, it is critical to ask court users with disabilities what they need.

Building relationships with these stakeholders will help courts improve their services and facilities to ensure access for all court users and will help improve public trust and confidence in the courts as people with disabilities see that the courts value and implement their input.

### Identifying Disability Justice and Disability Advocacy Groups in Your Community

Every court community will be different and have different resources, affinity groups, and advocacy groups for people with disabilities. The following organizations have offices or affiliates in a number of communities and may be good resources:

- [Disability Rights/Protection & Advocacy organizations](#)
- [The Arc](#)
- State disability service offices, often housing in state health or human service departments
- The AARP

Courts can also solicit feedback from individual court users who request accommodations to identify barriers in the process or the court experience itself.

## Community Relationships and Court User Feedback

The National Center for State Courts has resources to help courts build relationships with stakeholders and community groups and to collect court user feedback. Check out the following resources for more information:

- NCSC's [User Testing Toolkit](#) has information about collecting court user feedback and conducting usability testing on resources and court programs.

## Part 2: Title II of the ADA, Non-Discrimination, and Reasonable Modifications/Accommodations

The Americans with Disabilities Act (ADA) is a federal law that prohibits discrimination based on disability. Title II of the ADA applies to all state and local government entities, including state courts. Check out the [DOJ's Introduction to the Americans with Disabilities Act](#) for more information on the ADA generally.

**Remember:** Many states and localities have their own disability access and anti-discrimination laws. While this toolkit is designed for a national reach (with singular focus on the ADA), each court should ensure that they are aware of all applicable anti-discrimination and accommodation laws and requirements in their jurisdictions.

These next sections of the toolkit discuss various requirements of Title II of the ADA and how they apply in the court context.

### How Does the ADA Define Disability?

The ADA defines a **person with a disability** as someone who:

- has a physical or mental impairment that substantially limits one or more major life activities,
- has a history or record of such an impairment, or
- is perceived by others as having such an impairment.<sup>2</sup>

**Major life activities** are activities that a person might do every day, and include the body's internal processes. Some examples of major life activities (taken from the [DOJ's Introduction to the Americans with Disabilities Act Guide](#)) include:

- Eating, sleeping, speaking, and breathing;
- Movement including walking, standing, lifting and bending;
- Cognitive functions (e.g., thinking, concentrating);
- Sensory functions (e.g., seeing, hearing);
- Working, learning, reading, and communicating;
- Bodily system functions such as circulation, reproduction, and individual organs.

This list is not all-inclusive and there may be other major life activities impacted by disability. When considering whether a person is covered under the ADA, courts should use an expansive understanding of disability and major life activities.

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<sup>2</sup> 42 U.S.C. §12102; *see also*, ADA.gov, Introduction to the Americans with Disabilities Act, <https://www.ada.gov/topics/intro-to-ada/> (last visited November 25, 2024) (hereinafter Introduction to the Americans with Disabilities Act).

The term **substantially limits** is meant to be an expansive standard and should be interpreted broadly.<sup>3</sup>

**Remember:** Some disabilities are visible, and others are not. You cannot know whether someone has a disability by their appearance.

**Remember:** Disability is defined broadly and expansively under the ADA. When working with court users who identify as having disabilities, it will likely be most helpful for courts to focus on how to ensure that the person has access rather than obtaining documentation about the disability. More information about document is found in the [Documentation about Disability](#) Section below.

### Who is a *Qualified* Person with a Disability?

The ADA prohibits discrimination against a *qualified* individual with a disability. A qualified individual:

1. must have a disability as defined in the ADA and
2. must also otherwise meet the essential eligibility requirements to participate in a service or program.<sup>4</sup>

**Example:** A family court offers free mediation services to litigants who have active family court cases in the jurisdiction. A court user with a disability who does not have an active family court case would not meet the essential eligibility requirements to participate in the free mediation program and would not be entitled to an accommodation to participate in the family court mediation program.



### Jurisdiction Spotlight

[Maryland's state court website](#) has examples of disability to help encourage all court users with disabilities to ask for accommodations if they need them.

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<sup>3</sup> *See*, Introduction to the Americans with Disabilities Act, *supra*, note 2.

<sup>4</sup> [42 U.S.C. §12131 \(2\)](#).

## Part 3: Reasonable Modifications/Accommodations

Title II of the ADA requires that all courts make **reasonable modifications** to their programs and services to allow people with disabilities to access these services. Although the law uses the word “modifications” in Title II of the ADA, many courts use the term “accommodation” to mean modification and refer to reasonable accommodations on court websites and documents. In this way, modification and accommodation can be used interchangeably. For consistency, this toolkit uses the term accommodation to refer to modifications.

People who are using or accessing court services include litigants, jurors, attorneys, witnesses, and members of the public, and can all be construed as court users.<sup>5</sup> Courts must make reasonable accommodations to allow all court users to access court services and programs. This requires courts to think broadly about who counts as a court user.

### What Does “Reasonable” Mean?

A reasonable accommodation is one that does not cause an **undue burden** on a court or does not **fundamentally alter** the nature of a service or program. An undue burden might be a significant financial cost or a significant disruption to the court operation.

There is no single test to determine whether an accommodation is reasonable. This depends on the specific needs of the individual with a disability and the impact of the accommodation on the court. If a court is not able to provide the requested accommodation because of undue hardship or fundamental alteration, it is important to reduce barriers for the court user with a disability as much as possible. The court’s responsibility does not end just because the court is not able to provide the requested accommodation.

As discussed more below, courts should have clear policies about who makes decisions regarding accommodations. Decision-makers should also carefully document steps taken to provide a requested accommodation before determining there was an undue burden or fundamental alteration and should communicate about their decision with court user requesting the accommodation.

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<sup>5</sup> There is a separate section of the ADA, Title I, that applies to court employees. Title I also prohibits discrimination of employees on the basis of disability and requires court employers to make reasonable accommodations for court employees.

## What Does “Fundamentally Alter” Mean?

Courts do not need to make accommodations that will fundamentally alter the nature of a service or program.<sup>6</sup> When deciding whether an accommodation fundamentally alters a court service or program, courts should think carefully about the essential functions of courts and why a particular policy is in place or why a program, service, or proceeding is structured in a particular way. Just because a particular policy or practice is longstanding does not mean that changing it for an accommodation would fundamentally alter the nature of the court proceeding, service, or policy. For example, the COVID-19 pandemic showed that courts could hold many proceedings remotely without fundamentally altering their nature.

There is some potential tension if the requested accommodation threatens constitutional protections. For example, if a witness in a criminal trial requests to participate remotely because of a disability, the granting of that request could violate the defendant’s rights under the Confrontation Clause. Or if a person seeks an extension to a filing deadline due to a disability, but there is a strict timeline for this deadline under statute or court rule, the request may not be possible.

One way to begin thinking about fundamental alterations is to think about key values and functions of the court and then consider how a particular policy or practice might be related to that key value or function. Courts should also look at whether the request would violate Constitutional rights or require the court to disregard or alter the law in some way.

## What are Some Examples of Common Reasonable Accommodations?

Some common accommodations in the court setting may include:

- allowing a person to appear remotely for a court hearing;
- providing auxiliary communication aids or services such as CART, assistive listening devices, or sign-language interpreters;
- allowing someone to have a support person sit at counsel table with them;
- providing copies of documents in large print or Braille or having audio versions of documents; and
- filling out forms for people who are unable to write.

However, required accommodations will vary based on individuals. Different people will have different needs, and even people with similar disabilities may need different accommodations to allow them to fully access programs and services.

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<sup>6</sup> [28 CFR § 35.164](#).



## Jurisdiction Spotlights

[New York's court website](#) lists some examples of common accommodations requested and used in their courthouse.

[Maine's court website](#) also lists common accommodations, including accommodations for cognitive and intellectual disabilities.

## Case-Type Specific Resources

The DOJ has [information about the ADA and criminal justice cases](#), including specific examples of reasonable modifications/accommodations and considerations for criminal justice cases.

## Documentation about Disability

Courts should limit the information that they require or request when a person asks for an accommodation.

Although the ADA and accompanying rules are silent about requests for information, courts should think about how and when they may need to ask for information. In many situations, the court may not need to ask for evidence of disability. If a disability is visible (such as when a court user is a wheelchair user) and the accommodation requested seems related to the disability (such as the person requests that their hearing be moved to a courtroom on the first floor of the courthouse), there is no reason for court staff to ask for more information. Or if a disability is not visible, but a requested accommodation appears appropriate to remove a disability-related barrier (such as, a person requests a court seating arrangement where people will not be able to approach them from behind due to PTSD), again the court may not need additional information about the disability to make the accommodation.

If it is not clear how a requested accommodation will remove a barrier, the court may need to obtain more information. However, this may not require medical documentation. Instead, it may necessitate a conversation with the person about what barriers they have encountered or may encounter and what might alleviate those barriers. It is important to approach requests with an open mind. People may not have a visible disability, may not be able to fully explain a barrier, or may be able to participate in some situations without accommodations (such as, read lips and communicate verbally in

limited one-on-one interactions) but need accommodations in other situations (such as, an ASL interpreter for a trial).

Courts should ensure that court staff have regular training about how to handle requests for accommodations and that court staff know and when to involve the ADA Coordinator or a designated point person if there are questions about the accommodation and how it might help the person.

Asking for extraneous information, documentation, or medical records might not only violate the law, but it can make court users feel excluded and unwelcome and undermine trust in the judicial system.

## Court Data and Documentation of Disability

To help streamline accommodations and ensure that court staff are aware of a person's need for an accommodation, courts should indicate if the person needs an accommodation in their case management system.<sup>7</sup> Flagging a court user's need for an accommodation makes sure that all court staff and judicial officers are aware of an accommodation. This information can also be used to plan if the person has future interactions with the court.

## Public Information and Court Procedures about Accommodations

Many courts have developed processes and forms to allow people with disabilities to request accommodations. These policies are a simple and uniform way to ensure that people with disabilities have a clear way to communicate with the court about their needs. These policies also signal to court users that a court understands people may need accommodations and is willing and able to provide accommodations, making court users who need them more likely to request accommodations.

It is important that courts share information about their processes and forms related to accommodations. Courts can share this information in multiple places, in multiple formats, and in the languages most commonly used in the court community. Examples of where and how courts can share information about accommodations include:

- On physical signage in the courthouse, including at clerk's windows, self-help centers, information desks, and courtrooms;
- On court websites; and
- On hearing notices and other court documents.

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<sup>7</sup> See, [National Open Court Data Standards \(NODS\), tab 2, item 11 ADA Flag](#): Flag to indicate accessibility needs the court should address.

Courts can use QR codes to allow court users to link to forms to request accommodations and more information about accommodations.

While these forms and processes can streamline requests for most accommodations, there must be flexibility to allow court users to make requests other ways. Courts cannot require people to use a particular form or to make a request in a particular way. If a person indicates in any way, including non-verbally, that they are having a disability-related difficulty accessing a court program or proceeding, the court must determine if the person needs an accommodation and what accommodation they might need.

It is also important for all court staff to have regular training about how to handle requests for modifications from court users, regardless of how the requests are made, whether verbally, in writing, via email, or in another way.

Some key elements of ADA policies include:

- a clear process for updates and changes to the policy;
- training requirements for all court staff;
- communication with court users about their [rights under the ADA](#);
- [a grievance process](#) and communication with court users about the grievance process;
- a process for court users to easily request accommodations;
- information about who makes decisions about accommodation requests;
- what documentation court staff will make about steps taken to respond to accommodation requests; and
- requirements that court staff work with court users if the user's requested accommodation is determined to be not reasonable.



## Jurisdiction Spotlights

The following jurisdictions offer a few examples of the many jurisdictions that have forms and information on their websites about requesting accommodations:

- [California](#)
- [Florida's 11<sup>th</sup> Judicial District Court](#)
- [Maine](#)
- [Maryland](#)
- [Nebraska](#)
- [New Mexico](#)
- [New York](#)
- [Oklahoma](#)
- [Utah](#)

## Timing of Accommodation Requests

The ADA does not require that a person request an accommodation within a particular timeline. Given the broad anti-discrimination requirements in the ADA,<sup>8</sup> courts should be careful not to deny an accommodation simply because it was not submitted at a particular time. Some court users may not be able to request an accommodation ahead of time because they may not be aware of a barrier until they encounter it. This can be particularly true of the court process, which can be confusing and unfamiliar.

However, courts can create procedures asking court users to request accommodations in advance with particular timelines for requests. This ensures that courts are able to meet the needs of court users and understand what barriers an individual might face in a court process. It also helps court users think about whether they might need an accommodation in advance. However, if a user does not meet this deadline, the court cannot deny the accommodation request outright.

## Who Decides Whether an Accommodation is Reasonable

The question of who decides whether an accommodation is reasonable can be tricky in the court context.

Courts with over 50 employees are required to have [ADA coordinators](#) who can help users make accommodation requests. ADA coordinators may be able to make decisions about some accommodation requests. However, ADA coordinators may not have the authority to make a final decision about an accommodation, particularly if there is a significant cost involved or the accommodation requires a significant modification to a court process. This is also further complicated by the authority that judicial officers have to manage their courtrooms and conduct of court proceedings.

Courts should develop clear policies about who makes final decisions about accommodations in particular contexts. Some examples of how this might work include:

- an ADA coordinator may be able to make decisions about requests that do not appear to fundamentally alter a court service or process.,
- a court administrator may make the final decision about services or programs,
- a judge may make a final decision about accommodations that impact the structure or flow of a court proceeding (such as allowing additional time during a proceeding).

Regardless of the process of who is empowered to make final decisions about different kinds of accommodations, it is important that there be clear policies about how the

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<sup>8</sup> See e.g., [28 C.F.R. §35.130](#).

decision is made. This will help courts think through their responsibilities and understand what decision makers must be at the table to make determinations about accommodations. Clear, publicly available policies will also give court users with disabilities information about who makes decisions and how decisions will be made.



## Jurisdiction Spotlight

Oklahoma has clarified that the judge is the ultimate decision-maker with regard to requests for support people in the courtroom.

## Support People as an Accommodation

Some litigants or witnesses with disabilities may need a support person to attend court with them to help them participate and communicate during a court proceeding. This can be complicated in the court setting where non-attorney support people cannot actively participate in a court proceeding as an attorney or advocate due to restrictions about the unauthorized practice of law.

Courts will need to think carefully about what tasks support people can do and what tasks cross the line into attorney representation, which would fundamentally alter the nature of the court proceeding. Some common tasks that support people can perform that would not fundamentally alter that nature of the court proceeding and attorney representation include:

- sitting next to a person at counsel table to help comfort or calm them;
- taking notes and helping a person with a disability organize documents;
- writing down instructions from the court or next steps for the person with a disability; and
- repeating statements made by the person with a disability to assist with communication.<sup>9</sup>

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<sup>9</sup> Note that these are many of the same tasks that court navigators perform in jurisdictions that allow navigators to assist self-represented litigants in court. *See*, Mary E. McClymont, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019) available at <https://www.srln.org/node/1403/reportnonlawyer-navigators-state-courts-emerging-consensus-mcclymont-2019> (last visited January 2, 2024).



## Jurisdiction Spotlights

Some jurisdictions have developed policies or guidelines about support people:

[Oklahoma's support person policy](#) allows support people to:

- Sit next to the person during court proceedings.
- Speak quietly with the person to offer comfort or maintain calm.
- Speak quietly with the person to repeat questions or statements made by other participants in the courtroom.
- Take notes; write down instructions; assist with filling out forms.
- Help organize paperwork; hand the person documents.
- Repeat statements made by the person if necessary to assist with communication.

Importantly, Oklahoma's policy also clarifies what support people cannot do, including giving legal advice, and lays out expectations for behavior during a court proceeding.

[New Mexico's support person guidelines](#) give similar guidance about what a support person can and cannot do.

## Part 4: Effective Communication

People with disabilities communicate in many different ways. The ADA requires that courts communicate **effectively** with people with communication disabilities.<sup>10</sup>

When considering whether a communication method is effective, courts **must** give primary consideration to the communication aid or service chosen by the person with the disability. Courts can only refuse to use the communication method, aid, or service chosen by a person with a disability if another equally effective means of communication is available or that the use of the means chosen would result in a fundamental alteration or an undue burden.<sup>11</sup>

Again, there is no one test for determining whether communication is effective. It will depend on the communication methods used or requested and the needs of the individual. As with accommodations requests, it is important to work with the person who needs assistance to help identify communication barriers and methods of communication that will work for the person with the disability.

Courts should develop clear policies about who is responsible for ensuring effective communication within a court, court system, or jurisdiction. Courts should also ensure that staff understand effective communication and the court's responsibility to communicate effectively with all court users, including those with communication disabilities.

Courts should also familiarize themselves with tools and strategies to facilitate effective communication for people who are Deaf and hard of hearing as well as for people who have speech or language disabilities. These include assisted listening devices, ASL interpretation, writing, using speech to text apps, screen reader software as well as strategies for people with speech and language disabilities, such as allowing extra time for processing, speaking slowly, breaking information down into small chunks

Check out NCSC's webinars [Ensuring Effective Communication for People with Disabilities](#) and [A Follow-up Conversation to Ensuring Effective Communication for People with Disabilities](#) for more on effective communication.

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<sup>10</sup> See, [28 CFR § 35.160](#). See also, <https://www.ada.gov/resources/effective-communication/> (last visited January 2, 2025).

<sup>11</sup> See, [28 CFR § 35.160](#).

## Part 5: Notice of Rights and Grievance Procedures

The ADA requires courts to give court users notice about their rights under the ADA and share information about how a person can file a grievance if they believe they have been discriminated against because of a disability. Some places to post notice about rights and grievance procedures include:

- In multiple places in the courthouse;
- On court websites; And
- QR codes to link to the notice on paper forms or hearing notices. QR codes can also direct people to information about a process for requesting accommodations.



### Jurisdiction Spotlights

[Nebraska](#) includes information about their grievance procedures on their website.

[New Mexico's Notice of Rights](#) is provided in sign language as well as English and other commonly spoken languages.

## Part 6: ADA Coordinators

Any court with 50 or more employees must designate at least one employee to coordinate the court's compliance with the ADA, including investigations of complaints.<sup>12</sup> This person is often called the **ADA coordinator**. Even if a court does not have 50 employees, it may be helpful to designate an ADA coordinator to assist with disability access and ADA compliance.

In the court setting, ADA coordinators often do the following things:

- Monitor a court's compliance with state and federal disability laws.
- Develop and maintain relationships with local disability advocacy groups and the local disability community.
- Handle accommodation requests.
- Investigate and resolve grievances and complaints.
- Assist court staff (or courts in the case of statewide coordinators) with implementing accommodations or supporting court users with disabilities.
- Identify barriers to access and develop strategies to improve access to the court and court services.
- Provide input about disability access when changes to court rule or policy is addressed.
- Manage court budget items related to disability access.

### Jurisdiction Spotlights

[Washington's model ADA Coordinator description](#) can be used by courts across the state to help delineate Coordinator responsibilities and ensure uniformity.

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<sup>12</sup> [28 CFR § 35.107](#).

## Part 7: Self-Evaluation and Transition Plans

Courts must evaluate their services, policies, and practices to ensure they meet ADA requirements and must modify anything that does not meet ADA requirements.<sup>13</sup> (This requirement does not apply to buildings and facilities, which have separate requirements, address in the [Buildings and Facilities](#) section of this toolkit.)

Courts with 50 or more employees must also develop a **transition plan** outlining any changes needed and a timeline for these changes.

Interested individuals must have an opportunity to participate in the self-evaluation and transition planning processes.

Not only are self-assessment and transition plans required by law, but they are important tools that courts can use to understand the needs of court users in their communities, how to improve their facilities and processes to make courts more user-friendly, and improve public trust and confidence in the courts.

Many of the strategies and resources for building community relationships and conducting user feedback and useability testing highlighted in the [People with Disabilities and Court-Community Relationships](#) section of this toolkit can be used to identify barriers, community needs of people with disabilities, and ways to alleviate barriers.



### Jurisdiction Spotlights

The [Virgin Islands' Transition Plan](#) outlines needs of court users with disabilities, barriers addressed as of the date of the most recent plan update, and priorities to address unresolved needs.

New Mexico's [public survey](#) is designed to gather information to help the New Mexico Judiciary develop its transition plan.

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<sup>13</sup> [28 CFR § 35.105](#); *see also*, <https://www.ada.gov/resources/title-ii-primer/#planning-for-success> (last visited January 2, 2025).

## Part 8: Documents and Web Accessibility

Accessible court documents and web content ensure that everyone, including people with disabilities, can get important information and resources about the courts. If court documents and web content are not accessible, people with disabilities could be deprived of equal access, legal rights, or basic needs, such as housing.

Accessible web content is also required by law. On April 24, 2024, the United States Department of Justice issued a rule requiring that state and local government web content meet standards called the [WCAG 2.1, Level AA](#).<sup>14</sup> This rule applies to state and local courts. Most state and local courts have until April 24, 2026 to comply with this rule. More information is available in the [DOJ Rule Fact Sheet](#).

To understand web accessibility and common barriers, it is important to understand [how people with disabilities use the web](#). It is also important to ask court users with disabilities in your jurisdiction what they need from court documents and web content and what barriers they experience.

NCSC has developed a short guide, [Accessible Documents and Web Content for Courts](#), to identify some common document and web accessibility needs.

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<sup>14</sup> [28 CFR § 35.200](#).

## Part 9: Buildings and Facilities

The National Center for State Courts has a number of [resources related to courthouse planning and facilities construction](#) to help courts ensure that their courthouses are usable by people with disabilities and meet required building standards under the ADA.

## Part 10: Service Animals

The ADA contains specific requirements about service animals, which must be allowed to accompany individuals into court facilities, even if the court typically does not allow animals. This section discusses courts' responsibilities regarding service animals.

### What is a Service Animal?

A service animal is a dog of any breed or size or a miniature horse that has been trained to do a task directly related to a disability. This is different than an emotional support animal. There are special requirements about service animals under the ADA, but there are no requirements about emotional support animals under the ADA.<sup>15</sup>

### Where Can a Service Animal Go?

Courts must allow service animals access to any area of the courthouse to which the general public or to which participants in particular services or programs have access.<sup>16</sup> For example, if the general public is allowed in a courtroom during a particular court proceeding, then a service animal must be allowed in the courtroom as well. Likewise, if a person participating in a court-sponsored probation program meets with a probation officer in a probation office in the courthouse, that person must be permitted to bring a service animal into the office.

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<sup>15</sup> *See*, [28 CFR § 35.136](#).

<sup>16</sup> *Id.*

## What Can the Court Ask About a Service Animal?

There are two questions that court staff can ask to clarify whether the animal is a service animal:

1. Whether the animal is a service animal; and
2. What task or work the animal performs for an individual with a disability.<sup>17</sup>

The court cannot require documentation or certification about the service animal. The court cannot also not require that the service animal wear a vest or other designation showing that it is a service animal.<sup>18</sup>

## Can a Court Ever Ask Someone to Remove a Service Animal?

Yes, a service animal can be excluded if the animal is out of control and the handler does not take steps to control the animal or if the animal is not housebroken.<sup>19</sup> A service animal cannot be excluded based solely on size or breed (although there are some exceptions for miniature horses).

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<sup>17</sup> *See*, [28 CFR § 35.136\(f\)](#).

<sup>18</sup> *See, id.*

<sup>19</sup> *See*, [28 CFR § 35.136\(b\)](#).

## Part 11: Mobility Devices

The ADA also contains requirements about mobility devices used by people with disabilities. In most circumstances, courts must allow court users with disabilities to bring mobility devices, including power-driven mobility devices, into courthouses and courtrooms, even if the general public would not be allowed to bring these devices.<sup>20</sup> This section discusses requirements specific to mobility devices.

### Manually-Driven Mobility Devices

Manually-driven mobility devices, such as: wheelchairs, walkers, canes, or braces must be allowed in any area where people are able to travel by foot in a courthouse.<sup>21</sup> This includes courtrooms, self-help centers, and program officers if the court user needs to access the office.

### Power-Driven Mobility Devices

Courts must make reasonable accommodations to allow court users with mobility disabilities to use power-driven mobility devices, such as mobility scooters, unless the court can show the device cannot be operated according to legitimate safety requirements.

There are specific factors a court must consider when determining whether it can make a reasonable accommodation for a power-driven mobility. These factors are:

- type, size, weight, dimensions, and speed of the device;
- the volume of pedestrian traffic in the courthouse or specific courthouse location (and any variance due to particular time or day of the week);
- design of the courthouse space where the user would use the mobility device;
- whether the device can be operated safely in the specific space with appropriate safety requirements; and
- whether the use of the device would create a substantial risk of serious harm to the court environment or cultural resources.<sup>22</sup>

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<sup>20</sup> [28 CFR § 35.137](#).

<sup>21</sup> *See*, [28 CFR § 35.137\(a\)](#).

<sup>22</sup> *See*, [28 CFR § 35.137\(b\)](#).

## What Can the Court Ask About a Mobility Device?

A court cannot ask a court-user with any type of mobility device about the nature or specifics of their disability. A court can ask a court user with a power-driven mobility device for a **credible representation** that the court user has a disability. The court user can use a state-issued disability driving placard or card for this purpose or can give a verbal representation that they have a mobility disability.<sup>23</sup>

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<sup>23</sup> [28 CFR § 35.137\(c\)](#).