



## Michigan Supreme Court

State Court Administrative Office

### Trial Court Services Division

Michigan Hall of Justice

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Director

### MEMORANDUM

DATE: October 28, 2010

TO: Circuit Court and Family Division Judges  
District Court Judges  
Probate Court Judges  
Friends of the Court

cc: Circuit Court Administrators  
Family Division Court Administrators  
Probate Registers  
County Clerks

FROM: Steven D. Capps, Trial Court Services Director

RE: SCAO Administrative Memorandum 2010-07  
Americans with Disabilities Act (ADA) and ADA Amendments Act of 2008

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Following the enactment of the ADA Amendments Act of 2008, the State Court Administrative Office (SCAO) formed a workgroup to develop materials and make recommendations to assist Michigan courts providing services to persons with disabilities.

This memorandum provides an overview of the recommendations of the workgroup, the resources developed by the workgroup, and a timeline for the implementation of those recommendations.

Courts may call Jim Inloes at 517-373-0122, or e-mail at [inloesj@courts.mi.gov](mailto:inloesj@courts.mi.gov) with any questions.

**Background:**

The Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008 (ADAAA) identify the responsibilities of courts under Title II to provide access for citizens with disabilities to programs and services offered by public entities, including courts. Michigan courts have an obligation to take proactive steps to remove barriers to accessibility for people with disabilities. Nearly two million people in Michigan have some kind of disability.

With the passage of the Americans with Disabilities Act of 1990, SCAO directed all trial courts to develop a local policy on ADA compliance and to identify the local ADA Coordinator responsible for their court. A model policy was created, a Request for Accommodations form was developed (MC 70), and the list of local ADA Coordinators was posted to the SCAO website.

The ADA Amendments Act of 2008 provides "...clear, strong, consistent, enforceable standards addressing discrimination by reinstating a broad scope of protection to be available under the ADA."<sup>1</sup> This "broad scope of protection" extends coverage under the ADAAA to individuals who were denied coverage as a result of limiting Supreme Court decisions.<sup>2</sup>

SCAO created the workgroup to revisit courts' obligations under the ADA and to examine what new measures courts should take to be compliant with the ADA Amendments Act of 2008. In addition, the workgroup was charged with developing more information and guidance for courts to assure compliance with these federal statutes.

**Current Situation:**

Courts in Michigan have responded to requests for accommodations from persons with disabilities on a case-by-case basis as required by the ADA. The SCAO website provides on-line access to the Request for Accommodation form, the model policy, the list of ADA Coordinators, and other disability resources. However, there has not been a comprehensive approach to training, developing guidelines, and providing some real life questions and answers to judges and court staff on their responsibilities under the ADA. Consequently, courts have limited knowledge about the ADA and must quickly become educated each time a request for accommodation is made. In many jurisdictions, those requests are infrequent.

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<sup>1</sup> "Findings and Purposes" section of ADA Amendments Act of 2008

<sup>2</sup> Sutton v United Air Lines, Inc., 527 U.S. 471 (1999)

Toyota Motor Manufacturing, Kentucky, Inc. v Williams, 534 U.S. 184 (2002)

**Workgroup:**

The ADA Workgroup consisted of representatives from the Michigan Judges Association, Michigan District Judges Association, Michigan Probate Judges Association, Michigan Association of Circuit Court Administrators, Michigan Court Administration Association, Friend of the Court Association, Michigan Association of Family Court Administrators, Michigan Probate and Juvenile Registers Association, and the Michigan Court of Appeals. The workgroup met several times in the latter part of 2009 and the first eight months of 2010.

The workgroup focused on the development of materials that could aid judges, court administrators, clerks, and local ADA Coordinators in developing local policies and procedures that are fully compliant with the Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008. In addition, the workgroup wanted to assure that these materials were easy to understand, easily accessible, and provided practical information *as a supplement* to what is already available on the Department of Justice website at <http://www.ada.gov>.

To that end, the workgroup developed the following materials:

- A Handbook for Michigan Courts on Accessibility and Accommodation for Individuals with Disabilities.
- A new section of the Michigan Court Administration Reference Guide that provides a detailed overview of the Americans with Disabilities Act and the ADA Amendments Act of 2008.
- A frequently asked questions document that covers in some detail the courts' responsibilities under the Americans with Disabilities Act and the ADA Amendments Act of 2008.

The workgroup also made the following recommendations:

- SCAO should develop a training program for judges, court administrators, and court staff on the requirements of Americans with Disabilities Act and the ADA Amendments Act of 2008. That training should be mandatory for all chief judges and court administrators.
- SCAO should design a single webpage on the Michigan Courts website that is devoted exclusively to the Americans with Disabilities Act and the ADA Amendments Act of 2008. The new Michigan Court Administration Reference Guide materials and the Frequently Asked Questions document should be available on that page, as well as the new model LAO and model policy.
- SCAO should develop a model LAO on the ADA for use by local trial courts.
- Local trial courts should be encouraged to either submit a local administrative order or develop a policy consistent with the provisions in the model LAO developed by SCAO.

**Implementation:**

1. SCAO will develop a single webpage for all ADA materials, including the Handbook, the Michigan Court Administration Guide chapter on ADA, and the frequently asked questions within 60 days.
2. SCAO will develop and post to the webpage a model LAO for courts to use within 60 days. This model LAO can also be modified to serve as a local ADA policy in the event that a court chooses not to submit an LAO for approval.
3. The Michigan Judicial Institute will work with Trial Court Services staff to develop a training program for judges and court administrators and outline a schedule to provide that training.

**Recommendations for Trial Courts:**

While the workgroup's recommendations are developed and implemented, we suggest that all courts do the following:

1. Review your local ADA policy and make any necessary changes that assure compliance with the ADA and the ADA Amendments Act of 2008.
2. Update and submit to SCAO the name and title of your local ADA Coordinator.
3. Review the Handbook for Michigan Courts on Accessibility and Accommodations for Individuals with Disabilities when it becomes available on the SCAO webpage.
4. Review and distribute copies of the frequently asked questions document when it is posted to the new ADA webpage.

By developing a comprehensive understanding of the ADA and ADA Amendments Act of 2008, judges and court administrators will assure that all Michigan citizens will have equal access to the courts.

## **American with Disabilities Act – Frequently Asked Questions**

*Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, including courts. The ADA applies to all state and local governments, their departments and agencies, and any other instrumentalities or special-purpose districts of state or local government.<sup>1</sup>*

### **1. What is a "disability" under the ADA?**

A “disability” is a physical, mental, or communication condition that substantially limits one or more of the major life activities such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working. Some examples include mobility or other motor disabilities, vision disabilities, speech and hearing disabilities, environmental sensitivities, learning disabilities, and psychological disorders. The disability makes it hard for the person to do activities that most other people can do. It also may restrict the person’s way of doing things and/or where and for how long the person can do a certain activity or function. People who have a record of such disability or are regarded as having such disability also meet the definition of "disabled" for purposes of having a reasonable accommodation made.

### **2. Who is a "qualified" person with a disability?**

A qualified person with a disability is one who meets the essential eligibility requirements for the program or service offered by the court with or without reasonable accommodation. For example, in order to be eligible for jury service the statute requires that persons be able to read, speak, and understand the English language. A deaf person reads, speaks, and understands the English language, so that person is qualified. However, an accommodation must be made in order for that person to fully participate in jury service. Because the attorney, who must use a wheelchair, is a qualified person with a disability, and is licensed to practice law in the state, the court must make a reasonable accommodation to assure that the courtroom is accessible for all facets of any proceeding in which the attorney must participate.

### **3. How does Title II affect participation in a court’s programs, activities, and services?**

A court must eliminate any eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out persons with disabilities, unless it can establish that the requirements are necessary for the provision of the service, program, or activity. The court may, however, adopt legitimate safety requirements necessary for safe operation if they are based on real risks, not on stereotypes or generalizations about individuals with disabilities. Finally, a court must reasonably modify its policies, practices, or procedures to avoid discrimination.

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<sup>1</sup> <http://www.ada.gov/t2hlt95.htm>

**4. Are there any limitations on the program-accessibility requirement?**

Yes. A public entity does not have to take any action that it can demonstrate would result in a fundamental alteration in the nature of its program or activity, or in undue financial and administrative burdens. This determination can only be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The determination that undue burdens would result must be based on all resources available for use in the program. If an action would result in such an alteration or such burdens, the public entity must take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

**5. What are some examples of the types of modifications in policies and practices that would be reasonable in most cases?**

Examples include rewriting policies that categorically exclude people with disabilities from serving on juries, such as people who are deaf or blind; permitting a witness or spectator with diabetes to consume a snack, such as candy, as needed to maintain blood sugar levels; permitting persons with celiac disease who require gluten free meals to bring them to court; or explaining the words on an instruction sheet to a citizen who is mentally challenged.

**6. Who may request an accommodation?**

Any qualified person with a disability who has business in a state court, including attorneys, litigants, defendants, probationers, witnesses, potential jurors, prospective employees, and public observers of court services and programs may request reasonable accommodation by contacting the local ADA Coordinator.

**7. May spectators obtain reasonable accommodation in the courtroom?**

Yes, the courts must provide auxiliary aids to courtroom spectators as needed to ensure their equal participation in and benefit from court programs and services. Access to these services must be provided unless the court can demonstrate that the accommodation would result in a fundamental alteration of the nature of a service, program, or activity, or cause an undue financial or administrative burden. For example, an untimely request for accommodation by a spectator need not be granted if it would require a continuation of the court proceedings that would cause the undue administrative burden of rescheduling the parties, attorneys, and witnesses.

**8. How is a request for reasonable accommodation submitted?**

Each court has an ADA Coordinator who is responsible for arranging reasonable accommodations for people with disabilities. You can access the list of court ADA Coordinators at:

<http://courts.michigan.gov/scao/services/access/ADA-Coordinators.pdf>

In addition, the ADA Online Request form is available at:

<http://courts.michigan.gov/scao/services/access/MC70.pdf>

The request should identify the particular court activity or service for which accommodation is sought; the date, time, and location where the accommodation is needed; a description of the disability; and the type of accommodation being requested. All requests for an accommodation will be held confidential.

**9. When must the request for accommodation be made?**

To avoid causing undue disruption of court proceedings or processes, requests for accommodation must be given with reasonable notice. If the request relates to a jury summons, the individual should contact the Jury Clerk for the court in question as soon in advance as possible. If the request concerns a particular court proceeding, the request should be made as soon in advance as practicable to allow time to consider the request and arrange for reasonable accommodation.

**10. Is the court required to provide the requested accommodation?**

The court, with assistance from the local ADA coordinator, decides what reasonable accommodation can be made. Primary consideration is given to the request of the individual with the disability; however, an alternative accommodation may be offered if equally effective. The court is not required to make modifications that would fundamentally alter the service or program or cause an undue administrative or financial burden.

**11. Who pays for the auxiliary aids and services?**

Auxiliary aids and services necessary for effective communication or to enable participation in services, other than devices of a personal nature, are to be provided at no cost to the person with the disability. The court is responsible for providing the accommodation and paying the incurred costs.

**12. What kinds of accommodation are available?**

The court must ensure that court programs are physically accessible to people with disabilities by removing architectural barriers. Examples of architectural accommodations to facilitate accessibility to people with disabilities are: providing wheelchair ramps (at proper pitch and in safe locations) and wheelchair accessible restrooms in compliance with ADA accessibility standards, as described in the response to FAQ 21; allowing sufficient time for people with disabilities to travel to and from a barrier free restroom; adjusting the height of public information counters; labeling facilities with Braille lettering; providing adequate lighting in the courtrooms for those with vision disabilities; providing adjustable microphones for witnesses; altering openings to the well so that wheelchairs can pass through; allowing jurors and prospective jurors to sit outside the jury box or allowing witnesses to sit outside the witness box, as applicable, if those are not accessible for a wheelchair or if steps are required for persons who cannot easily climb up or down them. For additional accommodations that may be provided to people with specific disabilities, see the answers to FAQs 14 through 18.

**13. What does the requirement for effective communication mean in a court?**

The court must ensure that its communications with people with disabilities are as effective as communications with others so that all can fully participate and enjoy the services and programs provided. The provision of auxiliary aids and services, at no charge, may be a reasonable accommodation to ensure effective communication for a person with a hearing, visual, or speech disability. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved and the individual's specific disability and preferred mode of communication. Every effort shall be made to meet the specific needs of the individual. The court is not responsible, however, for providing devices of a personal nature such as prescription eyeglasses, hearing aids, wheelchairs, and/or personal medical or attendant care.

**14. What types of accommodations are available to assist people who are deaf or hard of hearing?**

Depending on the needs of the individual and the nature of the impairment, an accommodation may involve:

- allowing the person to sit where he or she can hear better;
- allowing use of a telecommunication system to communicate;
- providing a qualified sign interpreter appointed by the court;
- or providing an assistive listening system or computer-aided transcription device.

Some deaf and hard of hearing people rely on written notes to communicate with hearing people. Although writing can supplement other modes of communication, using it exclusively is tedious, cumbersome, and time-consuming. Also, because literacy levels vary, it is not accurate to assume that written notes will be effective for all deaf or hard of hearing people.

A common misconception is that all deaf and hard of hearing people can read lips. However, very few people can read lips well enough to understand speech, even under optimum conditions.

Below are several effective ways to telecommunicate with deaf, hard of hearing, and speech impaired people:

**A. Text Telephone (TTY)**

This is a special type of telephone with a keyboard and a small screen where typed text appears. Every court should consider having a TTY to handle incoming calls and for the public to use - the equivalent of a public phone booth.

**B. E-mail**

Another text-based way to communicate is to use e-mail through a computer, a web-enabled pager system, or a personal digital assistant.

**C. Telecommunications Relay Service (TRS)**

Telecommunications Relay Service (TRS) is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico, and the U.S. territories for local and/or long distance calls. TRS providers – generally telephone companies – are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

**1. How Does TRS Work?**

TRS uses operators, called communications assistants (CAs), to facilitate telephone calls between people with hearing and speech disabilities and other individuals. Either a person with a hearing or speech disability, or a person without such disability may initiate a TRS call. When a person with a hearing or speech disability initiates a TRS call, the person uses a TTY or other text input device to call the TRS relay center, and gives a CA the number of the party that he or she wants to call. The CA in turn places an outbound traditional voice call



to that person. The CA then serves as a link for the call, relaying the text of the calling party in voice to the called party, and converting to text what the called party voices back to the calling party.

2. **What Forms of TRS are Available?**

There are several forms of TRS, depending on the particular needs of the user and the equipment available.

- a. **Text-to-Voice TTY-based TRS** - With this type of “traditional” TRS, a person with a hearing or speech disability uses a special text telephone, called a TTY, to call the CA at the relay center. TTYs have a keyboard and allow people to type their telephone conversations. The text is read on a display screen and/or a paper printout. A TTY user calls a TRS relay center and types the number of the person he or she wishes to call. The CA at the relay center then makes a voice telephone call to the other party to the call, and relays the call back and forth between the parties by speaking what a text user types, and typing what a voice telephone user speaks.
- b. **Voice Carry Over** - Voice Carry Over (VCO) is a type of TRS that allows a person with a hearing disability, who wants to use his or her own voice, to speak directly to the called party and receive responses in text from the CA. No typing is required by the calling party. This service is particularly useful to senior citizens who have lost their hearing, but who can still speak.
- c. **Hearing Carry Over** - Hearing Carry Over (HCO) is a type of TRS that allows a person with a speech disability, who wants to use his/her own hearing, to listen to the called party and type his/her part of the conversation on a TTY. The CA reads the words to the called party, and the caller hears responses directly from the called party.
- d. **Speech-to-Speech (STS) Relay Service** - This form of TRS is used by a person with a speech disability. A CA, who is specially trained in understanding a variety of speech disorders, repeats what the caller says in a manner that makes the caller's words clear and understandable to the called party. No special telephone is needed. For more information regarding STS visit [www.fcc.gov/cgb/consumerfacts/speechtosomech.html](http://www.fcc.gov/cgb/consumerfacts/speechtosomech.html).
- e. **Shared Non-English Language Relay Services** - Due to the large number of Spanish speakers in the United States, the FCC requires interstate TRS providers to offer Spanish-to-Spanish traditional TRS. Although Spanish language relay is not required for intrastate (within a state) TRS, many states with large numbers of Spanish speakers offer this service on a voluntary basis. The FCC also allows TRS providers who voluntarily offer other shared non-English language interstate TRS, such as French-to-French, to be compensated from the federal TRS fund.
- f. **Captioned Telephone Service** - Captioned telephone service, like VCO, is used by persons with a hearing disability but some residual hearing. It uses a special telephone that has a text screen to display captions of what the other party to the conversation is saying. A captioned telephone allows the user, on one line, to speak to the called party and to simultaneously listen to the other party and read captions of what the other party is saying. There is a “two-line” version of captioned telephone service that offers additional features, such as call waiting, \*69, call forwarding, and direct dialing for 911 emergency service. Unlike traditional TRS (where the CA types what the

called party says), the CA repeats or re-voices what the called party says. Speech recognition technology automatically transcribes the CA's voice into text, which is then transmitted directly to the user's captioned telephone text display.

- g. **Video Relay Service (VRS)** - This Internet-based form of TRS allows persons whose primary language is American Sign Language (ASL) to communicate with the CA in ASL using video conferencing equipment. The CA speaks what is signed to the called party, and signs the called party's response back to the caller. VRS is not required by the FCC, but is offered by several TRS providers. VRS allows conversations to flow in near real time and in a faster and more natural manner than text-based TRS. TRS providers that offer VRS must provide it 24 hours a day, 7 days a week, and must answer incoming calls within a specific period of time so that VRS users do not have to wait for a long time. For more information regarding VRS visit: [www.fcc.gov/cgb/consumerfacts/videorelay.html](http://www.fcc.gov/cgb/consumerfacts/videorelay.html).
- h. **Internet Protocol (IP) Relay Service** - IP Relay is a text-based form of TRS that uses the Internet, rather than traditional telephone lines, for the leg of the call between the person with a hearing or speech disability and the CA. Otherwise, the call is generally handled just like a TTY-based TRS call. The user may use a computer or other web-enabled device to communicate with the CA. IP Relay is not required by the FCC, but is offered by several TRS providers. For more information regarding IP Relay, visit [www.fcc.gov/cgb/consumerfacts/iprelay.html](http://www.fcc.gov/cgb/consumerfacts/iprelay.html).
- i. **IP Captioned Telephone Service** – IP captioned telephone service, one of the newest forms of TRS, combines elements of captioned telephone service and IP Relay. IP captioned telephone service can be provided in a variety of ways, but uses the Internet – rather than the telephone network – to provide the link and captions between the caller with a hearing disability and the CA. It allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation is saying. IP captioned telephone service can be used with an existing voice telephone and a computer or other Web-enabled device without requiring any specialized equipment. For more information regarding IP captioned telephone service, visit [www.fcc.gov/cgb/consumerfacts/ipcaptioned.html](http://www.fcc.gov/cgb/consumerfacts/ipcaptioned.html).

### 3. **711 Access to TRS**

Just as you can call 411 for information, you can dial 711 to connect to certain forms of TRS anywhere in the United States. Dialing 711 makes it easier for travelers to use TRS because they do not have to remember TRS numbers in every state. Because of technological limitations, however, 711 access is not available for the Internet-based forms of TRS (VRS and IP Relay).

For more information regarding 711, visit [www.fcc.gov/cgb/consumerfacts/711.html](http://www.fcc.gov/cgb/consumerfacts/711.html)

## **D. Sign Language and Interpreters**

Many deaf and hard of hearing people use American Sign Language (ASL) rather than spoken English as their primary mode of communication. ASL is a natural language recognized globally and used by members of the deaf community here in

the United States. It is linguistically complete with unique rules for language structure and use that include phonology, morphology, syntax, semantics, and discourse.

Family members or amateurs who know some sign language should never interpret for a court-related process. They may lack the techniques and skills needed for effective interpretation, generally are not familiar with court terminology and protocols, and have difficulty being neutral in the process.

Not all deaf or hard of hearing people are proficient in American Sign Language. Occasionally, it will be necessary to use other means of ensuring communication. A person who is both deaf and blind may need an interpreter skilled in tactile communication. Some deaf and hard of hearing people do not use sign language but require an "oral" interpreter who silently mouths the speaker's words to them.

Complete information on sign language interpreters can be found at:  
<http://www6.dleg.state.mi.us/interpreter/>

#### **E. Assistive Listening Systems**

Assistive Listening Systems transmit sound as directly as possible to a hearing aid. Such systems should not be confused with audio systems that are designed to make the sound louder. Rather than enhancing all the sounds in the room, an assistive listening device can bring specific sounds directly to the user's ears.

#### **F. Real-Time Transcription**

Real-time transcription works effectively for individuals who have strong reading skills and for those who do not know sign language. Because of the speed of the transcription, it will not work for slow readers.

### **15. What types of accommodations are available to assist people who are legally blind or visually disabled?**

Depending on the needs of the individual and the nature of the disability, accommodation may involve: providing forms and instructions in Braille, large print, or on audio tape; providing assistance at the counter in filling out necessary paperwork; having written materials read out loud in the courtroom; allowing the person to sit closer than usual if they have limited vision; or providing additional lighting if the lighting is a problem.

People who are blind or visually disabled often can be assisted by increasing the size of an object, by changing viewing distance, by improving illumination, and by improving contrast. Changing size and distance go hand in hand. Size can be changed in several different ways: an object can be made larger (such as a big-button telephone), materials can be reproduced in a larger size (such as large print), a nearby object can be enlarged (using a magnifier), or a far-away object can be enlarged (using a telescope). Devices can be set into glass frames, some of which are bi-optic.

The most critical consideration for a low-vision individual is lighting. The midday offers the best light. Halogen bulbs and lamps that place direct light on a subject are highly recommended. When considering which bulbs to use, incandescent bulbs with a high

wattage are preferred over florescent. Florescent bulbs throw off a glaring blue light. If the person with a visual disability is referring to notes, additional light (such as a gooseneck lamp) may be necessary.

Contrast in written materials also can be important. The more words crowded onto a page and the more similar the ink and paper colors, the less one can discriminate. Using 14-point or larger black type on yellow paper will greatly increase the readability of materials.

**16. What types of accommodations are available to assist people with mobility disabilities?**

Depending on the needs of the individual and the nature of the disability, accommodation may include: having the clerk mail out forms to a person limited in his or her ability to visit the courthouse; or holding a proceeding in a more accessible location.

Depending on the nature of the disability and the preferences of the person with the disability, it may be a reasonable accommodation to allow the testimony of a witness to be videotaped, or the use of video conferencing technology in lieu of a personal appearance. These types of accommodations may be offered, but should not be forced on a person with a mobility disability. Often, the types of accommodations discussed in the response to FAQ 12 are preferable to the person with the disability and are perceived to be more respectful of that person's individual rights to appear and participate in court proceedings.

Many persons with limited mobility do not initially appear to have a disability, particularly if they do not use a cane or other assistive device. A disability may become apparent only when the person moves about the court facility with difficulty or when a crowd or rush of people affects the person's balance. Signs of a limitation of mobility include unsteadiness, walking slowly, aberrations in gait, holding back, or requiring unusual time to get around the court facility or to follow instructions related to movement. When these conditions are observed, it may be appropriate for court personnel to ask if any assistance is required and, when necessary, to alert the judge that the individual may need more time. Accommodations for such persons usually require no extra court personnel or other additional expense.

Loss of balance and falling are significant risks to persons of limited mobility in unfamiliar public places. What accommodations are reasonable and helpful to minimize these risks?

- Proactively anticipate and minimize these risks. Conspicuously mark changes in elevation and mark the top of steps or stairs. Don't overly polish floors, and use products that minimize slipperiness. Have consistent and adequate lighting.
- Have adequate seating for persons who have to wait.
- Offer adequate time for breaks when a person with limited mobility is in the courtroom so the person does not have to rush.
- Offer the person access to elevators, when available, and opportunities to sit and remain seated when others are expected to stand.

- Offer alternate restroom facilities if the public facilities are not close to the courtroom involved.
- Avoid risks for an individual who has difficulty climbing even a few steps or accessing positions in a jury box with different elevations by either offering a chair nearby or having a security person extend an arm to help steady the individual. This can be particularly problematic if a prospective juror of limited mobility is excused during voir dire and has to pass by other prospective jurors who are seated.
- Encourage court personnel to recognize and be responsive to mobility limitations, such as by avoiding unnecessary rushing, not walking closely behind a person who is moving slowly, and not passing the person from behind on the right side as opposed to the left side. These and other similar actions can be surprising and can affect a person's balance.
- Refrain from giving hands-on assistance without first asking (except when a person is in the process of falling), as an unexpected touching may affect the person's balance.
- Ask how best to help a person who has fallen; don't attempt to assist the person without consent. Falls are inherently unexpected. The person may need time to gather composure, assess whether there is an injury, or use individual means that work best for that person to get to a standing position. After the person is up, it is helpful to offer a chair and offer water.
- Don't move a person who has fallen and cannot move, does not want to move, or is unconscious. Call an emergency medical service or other trained personnel to minimize further injury. Block off the area until help arrives.

Re-evaluate handicap parking. All too frequently, handicap spaces are not the closest to the main building entrance. At least some spaces should be near the entrance. If a ramp starts at some distance from the entrance, some handicap spaces should be near the entrance and some near the bottom of the ramp.

#### **17. What types of accommodations are available to assist people with cognitive or developmental disabilities?**

Developmental disability is an umbrella term referring to disabilities present before an individual reaches 22 years of age. Examples of developmental disabilities are cerebral palsy, epilepsy, autism, hearing loss, Down syndrome, mental retardation, spinal injury, or brain injury. Cognitive disabilities refer to any disability affecting mental processes. Examples include mental retardation, attention deficit hyperactivity disorder (ADHD), dyslexia, Alzheimer's disease, aphasia, brain injury, language delay, and learning disabilities. Remember that many individuals with developmental and cognitive disabilities may not have limited intellectual functioning. Those that do may require accommodation.

Depending on the needs of the individual and the nature of the disability, accommodation may include: having the court and witnesses talk slowly or write things down; when

necessary, repeating information using different wording or a different communication approach, allowing time for information to be fully understood; presenting information in a clear, concise, concrete, and simple manner; when necessary, taking periodic breaks; presenting tasks in a step-by-step manner, letting the individual perform each step after explanation; scheduling court proceedings at a different time to meet the medical needs of the individual; providing a coach or support person at the proceeding; or allowing videotaped testimony or the use of video conferencing technology in lieu of a personal appearance.

**18. What types of accommodations are available to assist people with psychiatric disabilities?**

A person with a psychiatric disability is someone with a mental illness, which significantly interferes with that person's performance of major life activities, such as learning, thinking, communicating, and sleeping, among others. The most common forms of mental illnesses resulting in psychiatric disabilities are anxiety disorders, depressive disorders, and schizophrenia. Anxiety disorders are the most common group of mental illnesses and include panic disorder, phobias, obsessive-compulsive disorder, and post-traumatic stress disorder characterized by severe fear or anxiety associated with particular objects and situations. Depressive disorders include major depression, manic-depressive illness, and seasonal affective disorder characterized by disturbances or changes in moods. Schizophrenia is a highly complex illness characterized by thoughts that seem fragmented and difficulty processing information.

Depending on the needs of the individual and the nature of the disability, accommodation may include: scheduling court proceedings at certain times to coincide with medication requirements or effects; presenting information in a different manner to be better processed by the individual such as providing instructions in a written or recorded format; changing procedures as they relate to the interaction with witnesses and court staff in the courtroom; eliminating distractions; speaking slowly and distinctly; or allowing videotaped testimony or the use of video conferencing technology in lieu of a personal appearance.

**19. What if the request for accommodation is denied?**

Each court should have a local policy or local administrative order regarding the ADA and the grievance procedure adopted by the court.

**20. What does the ADA require for accessibility to court facilities?**

Courts must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. Court programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. This standard, known as program accessibility, applies to court facilities that existed on January 26, 1992. Courts do not necessarily have to make each of their existing facilities accessible if the service, program, or activity can be made accessible in another manner. For example, if a court holds hearings on the second floor of a building without elevators, it can make the program accessible by holding the hearings in an accessible room on the first floor or in another facility. The specific judicial system will be viewed in its entirety when determining accessibility. Therefore, if the court system in a particular jurisdiction consists of numerous facilities, and a specific proceeding can be moved within reason from an inaccessible facility to an accessible facility, the specific judicial system would be in compliance with the program-accessibility requirements.

**21. How can a court determine if a new building is accessible?**

A court facility will be in compliance with the ADA for new construction and alterations if it follows either of two accessibility standards. It can choose either the Uniform Federal Accessibility Standards (UFAS) or the Americans with Disabilities Act Standards for Accessible Design (ADA Standards). If the court chooses the ADA Standards, it is not entitled to the elevator exemption (that permits certain private buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator). The ADA Standards contain requirements necessary to make a building or other facility architecturally (physically) accessible to people with disabilities. The ADA Standards identify what features need to be accessible, set forth the number of those features that need to be made accessible, and then provide the specific measurements, dimensions, and other technical information needed to make the feature accessible.

**22. What are the alteration requirements for historic court buildings?**

Alteration of courthouses must comply with the specific provisions governing historic properties in ADA Standards or UFAS to the maximum extent feasible. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the courthouse, alternative standards may be used. The decision to use alternative standards for that feature must be made in consultation with the appropriate historic advisory board designated in ADA Standards or UFAS, and interested persons, including those with disabilities, should be invited to participate in the decision-making process.

The alternative requirements for historic buildings or facilities provide for minimal levels of access. For example:

- An accessible route is only required from one site access point (such as the parking lot).
- A ramp may be steeper than is ordinarily permitted.
- The accessible entrance does not need to be the one used by the general public.
- Only one accessible toilet is required, and it may be unisex.
- Accessible routes are required on the level of the accessible entrance and on other levels where practicable.

**23. What type of funding is available to help courts comply with the ADA?**

The Department of Justice occasionally has funding available for ADA related projects and technical assistance. Their website address is: <http://www.justice.gov/10grants>

**24. What options are available to a court if it determines that it cannot adequately provide the requested accommodation?**

Courts should consider contacting local advocacy groups, libraries, or other entities that may have resources available at no or minimal cost.

**25. What is an assistance animal?**

Assistance animals help people with disabilities in their day-to-day activities. Some examples include: guiding a blind or visually disabled person; alerting people with hearing

impairments to sounds; pulling wheelchairs or carrying and picking up things for people with mobility disabilities; and assisting people with mobility disabilities with balance.

**26. Are assistance animals allowed in the courts?**

An assistance animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go.<sup>2</sup> An individual with an assistance dog may not be segregated from other members of the public.

The care and supervision of the assistance dog is the sole responsibility of the owner. The court is not required to provide care, food, or a special location for the animal.

What if an assistance dog barks or growls at other people, or otherwise acts out of control or disruptive of the courtroom proceedings? It first must be noted that assistance dogs have special training and often are bred, selected, and continued in their training programs for their ability to function in difficult circumstances. Usually, an assistance dog that acts inappropriately does so as a response to the possibly inappropriate actions of others in the immediate area. When an assistance dog is present, the owner should be consulted as to how to encourage others to act in an appropriate manner. This is usually best done by advising them to ignore the dog's presence, not to speak to the dog or touch it, to allow it to do its work in an unfettered way, and not to take any actions that could be perceived as presenting a danger to the owner. In the rare instance when disruptive behavior happens, an assistance dog may be excluded from the courthouse if there is reason to believe the animal's behavior poses a direct threat to the health or safety of others. A service animal that displays vicious behavior towards other customers may be excluded. In addition, a court is not required to accommodate an assistance animal if it would result in a fundamental alteration of the nature of the court's business. A dog that barks during a hearing may be excluded; however, before excluding an assistance dog, the owner and possibly experts familiar with the particular type of assistance dog and its training should be consulted to determine what other measures short of exclusion may be taken. The owner can most likely assist in identifying experts who may be affiliated with the dog's training program. In the event an assistance dog is excluded, the individual with the disability should be given the option of continuing his or her participation in the court services. Most important, there should be consultation with the owner and possibly with experts in how best to exclude the animal with minimal disruption to its current and future ability to be of service.

**General ADA Compliance in Courts**

**27. What is a self-evaluation and what does it require courts to do?**

A self-evaluation is a public entity's assessment of its current policies and practices. The ADA requires that courts perform a self-assessment of their programs, services, and facilities to determine whether the courts are in compliance with the act. The self-evaluation identifies and corrects those policies and practices that are inconsistent with Title II's requirements. If the self-assessment identifies areas in which the court is not in compliance with the ADA, the court must formulate a plan to address the problems. All public entities, including courts, should have completed a self-evaluation by January 26, 1993. Structural changes to achieve

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<sup>2</sup> MCL 37.1302



program accessibility should have been completed by January 26, 1995. A court that has not completed its self-evaluation transition plan should take steps to do so.

**28. Who has the responsibility for ADA compliance when courts are located in buildings that are owned or leased by another government agency?**

The ADA places the legal obligation on each agency respectively. When agencies share the same building, they can work to ensure that facility modifications are made as needed to provide program accessibility. Each agency is responsible for ensuring effective communication and for providing auxiliary aids and services as needed. It is often possible to share resources or equipment, such as assistive listening systems or Braille printers.

## Self-Evaluation Checklist

**Instructions: Please check all statements to which you can answer “yes.”**

### Access Route, Parking, and Entrances

- 1. The access route to the entrance is free of barriers.
- 2. There is a ramp to ensure access for those using walkers, wheelchairs, crutches, etc.
- 3. The ground on the access route is even and the surface is not slippery.
- 4. There are handicapped parking spaces available.
- 5. These spaces are designated with signs.
- 6. These spaces are designated with pavement markings.
- 7. All inaccessible entrances have signs indicating the location of the nearest accessible entrance.
- 8. The only accessible entrance is a service entrance.

### Doors and Elevators

- 9. The door is equipped with (check all that apply):
  - automatic opener
  - a bell
  - an intercom
  - lever handle
  - handle at low spot accessible to person using a wheelchair
  - doorknob at normal height
  - low threshold to allow wheelchair access
- 10. The door is wide enough to allow wheelchair access.
- 11. There is a working elevator.
- 12. There are ramps, lifts, or elevators to all public levels.
- 13. There are visible and audible door opening/closing indicators.
- 14. The elevator's emergency intercom or phone is usable without voice communication.
- 15. The elevator's emergency intercom/phone is identified by Braille and raised letters.

### Restrooms, Fountains, Meeting Spaces

- 16. At least one restroom is fully accessible.
  - lever handles throughout
  - space to turn and maneuver wheelchair
  - lavatory height is accessible
  - toilet height is accessible
- 17. There is at least one drinking fountain that is wheelchair accessible.
- 18. There is at least one meeting room that is accessible for public functions.
- 19. Meeting space(s) has aisles wide enough to accommodate a wheelchair.

**Communication Accommodation**

- 20. There is an emergency warning system
  - equipped with flashing lights
  - equipped with audible signals
- 21. Maryland Relay is available.
- 22. Signs indicate that relay services are available.
- 23. Signs indicate website addresses to access materials and information.
- 24. Brochure racks are accessible to someone using a wheelchair.
- 25. Publications are available in other formats:
  - Large print
  - Braille
  - Audiotape
  - Captioned video
  - Dubbed/voiced-over video
  - Electronic media/web-based versions
  - Other \_\_\_\_\_

# Americans with Disabilities Act

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## 16-01 Introduction

### A. 1990 Act

The Americans with Disabilities Act (ADA) was passed July 26, 1990, as Public Law 101-336 (42 USC Sec. 12101 *et seq*), and became effective on January 26, 1992. The ADA is landmark federal legislation that opens up services and employment opportunities to the 43 million Americans with disabilities. The law was written to strike a balance between the reasonable accommodation of citizens' needs and the capacity of private and public entities to respond. It is not an affirmative action law but is intended to eliminate illegal discrimination and level the playing field for disabled individuals.

On September 25, 2008, the ADA Amendment Act of 2008 (ADAAA) was signed into law and became effective on January 1, 2009. The ADA was amended as a result of Supreme Court decisions that narrowed the definition of disability in unexpected ways.<sup>1</sup>

While the ADA has five separate titles, Title II is the section specifically applicable to “public entities” (state and local governments) and the programs, services, and activities they deliver. The Department of Justice (“DOJ” or the “Department”), through its Civil Rights Division, is the key agency responsible for enforcing Title II and for coordinating other federal agencies’ enforcement activities under Title II.

The Department’s Title II regulations for state and local governments are found at Title 28, Code of Federal Regulations, Part 35 (abbreviated as 28 CFR pt. 35). The ADA Standards for Accessible Design are located in Appendix A of Title 28, Code of Federal Regulations, Part 36 (abbreviated as 28 CFR pt. 36 app. A). Those regulations, the statute, and many helpful technical assistance documents are located on the ADA Home Page at <http://www.ada.gov> and on the ADA technical assistance CD-ROM, available without cost from the toll-free ADA Information Line at 1-800-514-0301 (voice) and 1-800-514-0383 (TTY).

### B. ADA Fundamentals

The cornerstone of Title II of the ADA is this: no qualified person with a disability may be excluded from participating in, or denied the benefits of, the programs, services, and activities provided by state and local governments because of a disability.<sup>2</sup>

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<sup>1</sup> Sutton v United Airlines Inc. 527 U.S. 471 (1999), School Board Of Nassau County v Arline, 480 U.S. 273 (1987), Toyota Motor Manufacturing, Kentucky, Inc. v Williams, 534 U.S. 1884 (2002)

<sup>2</sup> 42 U.S. Chapter 126, Subchapter II, Part A, §12132

## 16-02 Disability Defined and Who is Covered

### A. ADA Definition

The ADA defines disability as a mental or physical impairment that substantially limits one or more major life activities.<sup>3</sup> ADA protection extends not only to individuals who currently have a disability, but to those with a record of a mental or physical impairment that substantially limits one or more major life activities, or who are perceived or regarded as having a mental or physical impairment that substantially limits one or more major life activities.<sup>4</sup>

### B. Determining Whether an Individual has a Disability

Three things to ask when determining whether an individual has a disability *for purposes of the ADA* are:

#### **One: Does the individual have an impairment?**

A *physical* impairment is a physiological disorder or condition, cosmetic disfigurement, or anatomical loss impacting one or more body systems.<sup>5</sup> Examples of body systems include neurological, musculoskeletal (the system of muscles and bones), respiratory, cardiovascular, digestive, lymphatic, and endocrine.<sup>6</sup>

A *mental* impairment is a mental or psychological disorder.<sup>7</sup> Examples include mental retardation, emotional or mental illness, and organic brain syndrome.<sup>8</sup>

The Department's regulations also list other impairments, including contagious and non-contagious diseases; orthopedic, vision, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; specific learning disabilities; HIV disease (with or without symptoms), tuberculosis, drug addiction, and alcoholism.<sup>9</sup>

#### **Two: Does the impairment limit any major life activities?**

An impairment cannot be a disability unless it limits something, and that something is one or more major life activities. A major life activity is an activity that is central to daily life.<sup>10</sup> According to the Department's regulations, major life activities include walking, seeing, hearing, breathing, caring for oneself, sitting, standing, lifting, learning, thinking, working,<sup>11</sup> and performing manual tasks that are central to daily life.<sup>12</sup> The

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<sup>3</sup> 42 USC § 12202(2)(A).

<sup>4</sup> 42 USC § 12102(2)(B) & (C).

<sup>5</sup> 28 CFR § 35.104(1)(i)(A).

<sup>6</sup> 28 CFR § 35.104(1)(i)(A).

<sup>7</sup> 28 CFR § 35.104(1)(i)(B).

<sup>8</sup> 28 CFR § 35.104(1)(i)(B).

<sup>9</sup> 28 CF. § 35.104(1)(ii).

<sup>10</sup> Toyota Motor Mfg., Kentucky, Inc. v Williams, 534 U.S. 184 (2002).

<sup>11</sup> Bragdon v Abbott, 524 U.S. 624, 638-49 (1999). The Supreme Court has questioned whether "working" is a major life activity. However, "working" is identified as a major life activity under the regulations for Title II of the ADA, 28 CFR § 35.104, and the regulations for Title I of the ADA, 29 CFR § 1630.2(I).

<sup>12</sup> Toyota, 534 U.S. 184.

Supreme Court has also decided that reproduction is a major life activity.<sup>13</sup> This is not a complete list. Other activities may also qualify, but they need to be activities that are important to most people's lives.

### **Three: Is the limitation on any major life activity substantial?**

Not only must a person have an impairment that limits one or more major life activities, but the limitation of at least one major life activity must be "substantial." An impairment "substantially limits" a major life activity if the person cannot perform a major life activity the way an average person in the general population can, or is significantly restricted in the condition, manner, or duration of doing so. An impairment is "substantially limiting" under the ADA if the limitation is "severe," "significant," "considerable," or "to a large degree."<sup>14</sup> The ADA protects people with serious, long-term conditions. It does not protect people with minor, short-term conditions.

Here are some things to think about when trying to decide if an impairment is substantially limiting:

- What kind of impairment is involved?
- How severe is it?
- How long will the impairment last, or how long is it expected to last?
- What is the impact of the impairment?
- How do mitigating measures, such as eyeglasses and blood pressure medication, affect the impairment? The Supreme Court has ruled that, if an impairment does not substantially limit one or more major life activities because of a mitigating measure an individual is using, the impairment may not qualify as a disability.<sup>15</sup> Remember, however, that mitigating measures such as blood pressure medication may sometimes impose limitations on major life activities, and those must be considered as well.

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<sup>13</sup> *Bragdon v Abbott*, 524 U.S. 624 (1988).

<sup>14</sup> *Toyota*, 534 U.S. 184.

<sup>15</sup> *Sutton v United Airlines, Inc.*, 527 U.S. 471 (1999).



## 16-03 Qualified Person with a Disability

Having an impairment that substantially limits a major life activity may mean that a person has a disability, but that alone does not mean that the individual is entitled to protection under the ADA. A person with a disability must also qualify for protection under the ADA. A “qualified individual with a disability” is someone who meets the essential eligibility requirements for a program, service, or activity **with or without** (1) reasonable modifications to rules, policies, or procedures; (2) removal of physical and communication barriers; and (3) providing auxiliary aids or services for effective communications.<sup>16</sup>

Essential eligibility requirements can include minimum age limits or height requirements (such as the age at which a person can first legally drive a car or height requirements to ride a particular roller coaster at a county fair). Because there are so many different situations, it is hard to define this term other than by examples. In some cases, the only essential eligibility requirement may be the desire to participate in the program, service, or activity.

What happens if an individual with a disability does not meet the eligibility requirements? In that case, you will have to look further to determine if the person with the disability is entitled to protection under the ADA. When a person with a disability is not qualified to participate or enjoy a program, service, or activity under Title II, there may be ways to enable the individual to participate, including, for example:

- Making a reasonable modification to the rule, policy, or procedure that is preventing the individual from meeting the requirements,
- Providing effective communication by providing auxiliary aids or services, or
- Removing any architectural barriers.

### A. Reasonable Modification

Public entities must reasonably modify their rules, policies, and procedures to avoid discriminating against people with disabilities. Requiring a driver’s license as proof of identity is a policy that would be discriminatory because there are individuals whose disability makes it impossible for them to obtain a driver’s license. In that case it would be a reasonable modification to accept another type of government-issued I.D. card as proof of identification.

Examples of reasonable modifications:

- Granting a zoning variance to allow a ramp to be built inside a set-back.
- Permitting a personal attendant to help a person with a disability to use a public restroom designated for the opposite gender.
- Permitting a service animal in a place where animals are typically not allowed, such as a cafeteria or a courtroom.

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<sup>16</sup> 28 CFR § 35.105

Are there times when a modification to rules, policies, and procedures would not be required? Yes, when providing the modification would fundamentally alter the nature of the program, service, or activity.<sup>17</sup>

A fundamental alteration is a change to such a degree that the original program, service, or activity is no longer the same. For example, a city sponsors college-level classes that may be used toward a college degree. To be eligible to enroll, an individual must have either a high school diploma or a General Educational Development certificate (“G.E.D”). If someone lacks a diploma or G.E.D. because of a cognitive disability, would the city have to modify the policy of requiring a high school diploma or G.E.D.? Probably not. Modifying the rule would change the class from college level to something less than college level and would fundamentally alter the original nature of the class.

## **B. Effective Communication**

People with disabilities cannot participate in government-sponsored programs, services, or activities if they cannot understand what is being communicated. What good would it do for a deaf person to attend a city council meeting to hear the debate on a proposed law if there was no qualified sign language interpreter or real-time captioning (that is, a caption of what is being said immediately after the person says it)? The same result occurs when a blind patron attempts to access the internet on a computer at a county’s public library when the computer is not equipped with screen reader or text enlargement software. Providing effective communication means offering auxiliary aids and services to enable someone with a disability to participate in the program, service, or activity.

### Types of Auxiliary Aids and Services

There are a variety of auxiliary aids and services. Here are a few examples.

- **For individuals who are deaf or hard of hearing:** qualified sign-language and oral interpreters, note takers, computer-aided transcription services, written materials, telephone headset amplifiers, assistive listening systems, telephones compatible with hearing aids, open and closed captioning, videotext displays, and TTYs (teletypewriters).
- **For individuals who are blind or have low vision:** qualified readers, taped texts, Braille materials, large print materials, materials in electronic format on compact discs or in e-mails, and audio recordings.
- **For individuals with speech impairments:** TTYs, computer stations, speech synthesizers, and communications boards.

Persons with disabilities should have the opportunity to request an auxiliary aid, and you should give ‘primary consideration’ to the aid requested. Primary consideration means that the aid requested should be supplied unless: (1) you can show that there is an equally effective way to communicate; or (2) the aid requested would fundamentally alter the nature of the program, service, or activity.

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<sup>17</sup> 28 CFR § 35.130(b) (7).

**Example:** A person who became deaf late in life is not fluent in sign language. To participate in her defense of criminal charges, she requests real time computer-aided transcription services. Instead, the court provides a qualified sign language interpreter. Is this effective? No. Providing a sign language interpreter to someone who does not use sign language is not effective communication

### The Cost of Doing Business

The expense of making a program, service, or activity accessible or providing a reasonable modification or auxiliary aid may not be charged to a person with a disability requesting the accommodation.<sup>18</sup>

**Example:** If a person asks for a sign language interpreter at a court hearing, the cost may not be passed along to the person requesting that accommodation.

### Barriers to Accessibility

#### **Examples:**

#### Architectural

- A building has just one entrance that is up a flight of stairs and has no ramp.
- The door to the only public restroom in a building is 28 inches wide.

#### Policies and Procedures

- Requiring a driver's license to obtain a library card from the public library.
- A "No Animals" rule (without an exception for service animals) to enter a pie baking booth at a county fair.

#### Effective Communication

- No assistive listening system for public meetings by a City Council.
- A state's website that cannot be accessed by blind people using screen reader software or those with low vision using text enlargement software.

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<sup>18</sup> 28 CFR § 35.130(f).

## 16-04 What is Covered

### A. Programs, Services, and Activities

Public entities may provide a wide range of programs, services, and activities. Police, fire, corrections, and courts are services offered by public entities. Administrative duties such as tax assessment or tax collection are services. Places people go such as parks, polling places, stadiums, and sidewalks are covered. These are just some examples (and by no means a complete list) of the types of programs, services, and activities typically offered by state and local governments.

### B. Integrated Setting

One of the main goals of the ADA is to provide people with disabilities the opportunity to participate in the mainstream of American society. Commonly known as the “integration mandate,” public entities must make their programs, services, and activities accessible to qualified people with disabilities in the most integrated way appropriate to their needs.<sup>19</sup>

Separate or special activities are permitted under Title II of the ADA to ensure that people with disabilities receive an equal opportunity to benefit from the government’s programs, services, or activities.<sup>20</sup> However, even if a separate program is offered to people with disabilities or people with one kind of disability, a public entity cannot deny a person with a disability access to the regular program. Under the ADA, people with disabilities get to decide which program they want to participate in, even if the public entity does not think the individual will benefit from the regular program.<sup>21</sup>

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<sup>19</sup> 28 CFR § 35.130(d).

<sup>20</sup> 28 CFR § 35.130(b)(1)(iv).

<sup>21</sup> 28 CFR § 35.130(b)(2).

## 16-05 Facilities

The ADA treats facilities that were built before it went into effect differently from those built or renovated afterwards. **The key date to remember is January 26, 1992**, when Title II's accessibility requirements for new construction and alterations took effect.<sup>22</sup>

### A. Before January 26, 1992

Facilities built before January 26, 1992, are referred to as “pre-ADA” facilities.<sup>23</sup> If there is an architectural barrier to accessibility in a pre-ADA facility, you may remove the barrier using the ADA Standards for Accessible Design or the Uniform Federal Accessibility Guidelines (UFAS) as a guide, or you may choose to make the program, service, or activity located in the building accessible by providing “program access.”<sup>24</sup> Program access allows you to move the program to an accessible location, or use some way other than making all architectural changes to make the program, service, or activity readily accessible to and usable by individuals with disabilities.

### B. After January 26, 1992

Any facility built or altered after January 26, 1992, must be “readily accessible to and usable by” persons with disabilities. For ADA compliance purposes, any facility where construction commenced after January 26, 1992, is considered “new,” “newly constructed,” or “post-ADA.” “Readily accessible to and usable by” means that the new or altered building must be built in strict compliance with either the ADA Standards for Accessible Design or UFAS.

Altering (renovating) a building means making a change in the usability of the altered item. Examples of changes in usability include: changing a low pile carpet to a thick pile carpet, moving walls, installing new toilets, or adding more parking spaces to a parking lot. Any state or local government facility that was altered after January 26, 1992, was required to be altered in compliance with the ADA Standards or UFAS.

When part of a building is altered, the alterations must be made in strict compliance with architectural standards, including creating an accessible path of travel to the altered area.

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<sup>22</sup> 28 CFR § 35.151

<sup>23</sup> 28 CFR §§ 35.150 - 35.151.

<sup>24</sup> 28 CFR § 35.150.

## **16-06 Enforcement and Remedies**

### **A. Filing a Complaint**

An individual or a specific class of individuals or their representative alleging discrimination on the basis of disability by a state or local government may either file:

- An administrative complaint with the Department of Justice or another appropriate federal agency; or
- A lawsuit in federal district court.

If an individual files an administrative complaint, the Department of Justice or another federal agency may investigate the allegations of discrimination. Should the agency conclude that the public entity violated Title II of the ADA, it will attempt to negotiate a settlement with the public entity to remedy the violations. If settlement efforts fail, the agency that investigated the complaint may pursue administrative relief or refer the matter to the Department of Justice. The Department of Justice will determine whether to file a lawsuit against a public entity to enforce Title II of the ADA.

### **B. Potential Remedies**

Potential remedies (both for negotiated settlements with the Department of Justice and court-ordered settlements when the Department of Justice files a lawsuit) include:

- Injunctive relief to enforce the ADA (such as requiring that a public entity make modifications so a building is in full compliance with the ADA Standards for Accessible Design or requiring that a public entity modify or make exceptions to a policy);
- Compensatory damages for victims; and/or
- Back pay in cases of employment discrimination by state or local governments.

In cases where there is federal funding, fund termination is also an enforcement option that federal agencies may pursue.

## **16-07 Administrative Requirements**

### **A. Designating an ADA Coordinator**

If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance. A government entity may elect to have more than one ADA Coordinator. Although the law does not refer to this person as an “ADA Coordinator,” this term is commonly used in state and local governments across the country.

The ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with Title II and investigating any complaints that the entity has violated Title II. The name, office address, and telephone number of the ADA Coordinator must be provided to interested persons.

#### **Benefits of an ADA Coordinator**

There are many benefits to having a knowledgeable ADA coordinator, even for smaller public entities that are not required to have one.

For members of the public, having an ADA Coordinator makes it easy to identify someone to help them with questions and concerns about disability discrimination. For example, the ADA Coordinator is often the main contact when someone wishes to request an auxiliary aid or service for effective communication, such as a sign language interpreter or documents in Braille. A knowledgeable ADA Coordinator will be able to efficiently assist people with disabilities with their questions. The coordinator will also be responsible for investigating complaints.

Having an ADA Coordinator also benefits state and local government entities. It provides a specific contact person with knowledge and information about the ADA so that questions by staff can be answered efficiently and consistently. In addition, she or he coordinates compliance measures and can be instrumental in ensuring that compliance plans move forward. With the help of ADA Best Practices Tool Kit for State and Local Governments (<http://www.ada.gov/pcatoolkit/chap1toolkit.htm>), ADA Coordinators can take the lead in auditing their state or local government’s programs, policies, activities, services, and facilities for ADA compliance.

### **B. Notice of the ADA’s Provisions**

The second administrative requirement is providing public notice about the ADA. Regardless of the entity’s size, the ADA notice requirement applies. The ADA notice requirement applies to ALL state and local governments covered by Title II, even localities with fewer than 50 employees.

There are three main considerations for providing notice:

- 1. Who is the target audience for the ADA notice?**

The target audience for public notice includes applicants, beneficiaries, and other people interested in the state or local government's programs, activities, or services. The audience is expansive, and includes everyone who interacts – or would potentially interact – with the state or local government.

## **2. What information shall the notice include?**

The notice is required to include relevant information regarding Title II of the ADA, and how it applies to the programs, services, and activities of the public entity.

The notice should not be overwhelming. An effective notice states the basics of what the ADA requires of the state or local government without being too lengthy, legalistic, or complicated. It should include the name and contact information of the ADA Coordinator.

## **3. Where and how should the notice be provided?**

It is the obligation of the head of the public entity to determine the most effective way of providing notice to the public about their rights and the public entity's responsibilities under the ADA.

Publishing and publicizing the ADA notice is not a one-time requirement. State and local governments should provide the information on an ongoing basis, whenever necessary. If you use the radio, newspaper, television, or mailings, re-publish and rebroadcast the notice periodically.

## **C. Establishing and Publishing Grievance Procedures**

Local governments with 50 or more employees are required to adopt and publish procedures for resolving grievances arising under Title II of the ADA. Grievance procedures set out a system for resolving complaints of disability discrimination in a prompt and fair manner.

Neither Title II nor its implementing regulations describe what ADA grievance procedures must include. However, the Department of Justice has developed a model grievance procedure that is included at the end of this chapter.

The grievance procedure should include:

- A description of how and where a complaint under Title II may be filed with the government entity;
- If a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
- A description of the time frames and processes to be followed by the complainant and the government entity;
- Information on how to appeal an adverse decision; and
- A statement of how long complaint files will be retained.

Once a state or local government establishes a grievance procedure under the ADA, it should be distributed to all agency heads. Post copies in public spaces of public



buildings and on the government's website. Update the procedure and the contact information as necessary.

In addition, the procedure must be available in alternative formats so that it is accessible to all people with disabilities.

[SAMPLE]

[Name of court]  
**Grievance Procedure under  
The Americans with Disabilities Act**

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the [name of court]. The [e.g. (name of) court]'s Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination, such as the name, address, and phone number of the complainant and the location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a taped recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible, but no later than 60 calendar days after the alleged violation, to:

[Insert ADA Coordinator's name]  
ADA Coordinator [and other title if appropriate]  
[Insert ADA Coordinator's mailing address]

Within 15 calendar days after receipt of the complaint, [ADA Coordinator's name] or [his/her] designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, [ADA Coordinator's name] or [his/her] designee will respond in writing, and when appropriate, in a format accessible to the complainant. The response will explain the position of the [name of court] and offer options for substantive resolution of the complaint.

If the response by [ADA Coordinator's name] or [his/her] designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the [Court Administrator/or Chief Judge] or [his/her] designee.

Within 15 calendar days after receipt of the appeal, the **Court Administrator or Chief Judge** or [his/her] designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the [Court Administrator or Chief Judge] or [his/her] designee will respond in writing, and, when appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape, with a final resolution of the complaint.

**All written complaints received by [name of ADA Coordinator] or [his/her] designee, appeals to the [Court Administrator or Chief Judge] or [his/her] designee, and responses from these two offices will be retained by the [court] for at least three years.**

[SAMPLE]  
**(Name of Court)**  
**Americans with Disabilities Act**  
**Grievance Form**

Please provide the following information:

1. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

2. Date the aggrieved action occurred or was observed: \_\_\_\_\_

3. Name and location of the court program or service involved that is the subject of the complaint.

Name of program or service: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State \_\_\_\_\_ Zip code: \_\_\_\_\_

4. Name(s) of the Court employee representative with whom you made contact regarding the subject of this grievance:

\_\_\_\_\_  
\_\_\_\_\_

5. Describe why you believe you are the victim of discrimination on the basis of disability in the delivery of (name of court) programs and services:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Grievant

\_\_\_\_\_  
Date

**A Handbook for Michigan Courts on Accessibility and  
Accommodation  
for Individuals with Disabilities**

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## Acknowledgements

This handbook has been modified, with permission, from one developed by the State of Georgia, Commission on Access and Fairness in the Courts in December 2004. The Michigan State Court Administrative Office (SCAO) sincerely thanks the state of Georgia's Administrative Office of the Courts for their willingness to permit the use and modification of this material.

## Overview

The American with Disabilities Act of 1990 and the ADA Amendments Act of 2008 clearly identify the responsibilities of courts under Title II to provide access for citizens with disabilities to programs and services offered by public entities, including courts. This handbook serves as a guide for judges and court staff for being fully compliant with these two federal statutes.

It is organized in five sections. They are:

- I. An Overview of the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008.
- II. Interacting With Persons With Disabilities
- III. Establishing a Disability/Accommodation Protocol
- IV. Removing Common Barriers to Access - Communication
- V. Removing Common Barriers to Access - Facilities

Within the context of these sections, the following recommendations should be considered by Michigan courts:

- Judges, administrators, and court staff should be provided training regarding the fundamental elements of the Americans with Disabilities Act and the ADA Amendments Act of 2008.
- Judges, administrators, and court staff should be provided training on interacting with persons with disabilities.
- Chief judges and court administrators should develop policies and procedures on responding to requests for accommodation and communicate those policies and procedures to all court staff.
- Each court should have a comprehensive resource guide for providing effective communication to persons with disabilities. This resource guide should outline all local resources as well as state and federal resources that are available.
- Training should be provided for court staff on responding to the needs of persons with mental or cognitive disabilities.

Implementing these recommendations will provide benefits that exceed any cost associated with their implementation. They will preserve our commitment to access to Michigan's justice system for all citizens.



## **Introduction**

**Michigan courts have an obligation to take proactive steps to remove barriers to accessibility for people with disabilities. Nearly two million people in Michigan have some kind of disability. This handbook is designed to help Michigan courts identify and remove barriers to access to Michigan's courts for people with disabilities.**

Disability is a natural part of life. There are nearly two million people in Michigan with some kind of disability. Some of them acquired disabilities at birth, such as cerebral palsy, while others acquired them later in life, such as a spinal cord injury. Some people have obvious disabilities, such as blindness, while others experience disabilities coined as "hidden," such as diabetes, deafness, HIV infection, and epilepsy. Some individuals undergoing cancer treatment experience disability on a temporary basis, while others have permanently disabling conditions that may be progressive in nature. As a result of disabilities, many citizens are significantly restricted in their ability to hear, see, think, breathe, walk, or conduct many other life activities.

Citizens with disabilities play an important role in all Michigan communities and families. At any given time, these citizens may come into contact with the court system. Citizens with disabilities may serve as jurors, may appear as parties or witnesses in a trial, or may choose to attend a hearing as observers. Currently, people with disabilities serve as judges, referees, magistrates, lawyers, and clerks in Michigan courts.

While some individuals with disabilities are able to take part in various court processes and activities without difficulty, for many others their disabilities combined with environmental obstacles impose significant barriers to an equal opportunity to participate. Therefore, Michigan courts have an obligation to identify and remove barriers for people with disabilities so they can access court programs and services, including judicial proceedings, jury service, and courthouse meetings.

Common barriers to access include:

- Lack of awareness or unintended insensitivity to disability-related concerns
- Lack of effective auxiliary aids and services for individuals with communication disabilities
- Inaccessible court facilities for individuals with mobility impairments
- Inflexible court policies, practices, and procedures

## **The Challenge**

Disability presents two related, yet distinct, challenges for Michigan courts. The first challenge involves developing and implementing a comprehensive plan to address general accessibility concerns for Michigan's citizens with disabilities, including but not limited to removing architectural barriers in courthouses, installing assistive listening systems in courtrooms, providing materials in alternative formats, and making court websites accessible

for people who use assistive technology. These actions improve access to the courts for many people.

The second challenge involves interacting with people with disabilities as individuals, and not just as members of a group. No two people with disabilities are alike; each individual has unique skills, aptitudes, and capacities. Under certain circumstances, it may be necessary to provide an individualized accommodation, such as a sign language interpreter for a person who is deaf, to ensure an equal opportunity to be heard in the administration of justice. Moreover, an accommodation that works well for one individual with a disability may not work as well for someone else with a similar disability. Thus, courts must<sup>1</sup> evaluate on a case-by-case basis each request for a reasonable accommodation by a person with a disability.

## **The Approach**

This handbook is designed to provide accurate, up-to-date information about the rights of people with disabilities in clear, easy-to-understand language; and to build the capacity of judges, courtroom staff, clerks, and other courthouse personnel to effectively identify and remove the barriers to full participation that individuals with disabilities encounter in Michigan courtrooms.

To address these challenges, this handbook follows the framework established in the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008. With these broader standards, courts must recognize that the ADA was designed to protect the civil rights of people with disabilities. When courts are asked to take steps to ensure that people with disabilities have equal access to court programs, services, and activities, it is important to view such requests in the context of the civil rights of an individual with a disability, instead of seeing ADA compliance as an unwanted mandate.

This handbook is not intended as a complete ADA compliance manual; it is a resource for Michigan courts. The U.S. Department of Justice (DOJ) provides abundant information, including an ADA technical assistance manual for Title II entities at: <http://www.ada.gov/publicat.htm>.

## **The Benefits**

The benefits of providing disability-related accommodations include:

- Ensuring due process, equal protection, and civil rights of individuals with disabilities;

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<sup>1</sup> Whenever the word “must” is used in connection with the responsibilities of the court, it is used as a requirement of the Americans with Disabilities Act and the ADA Amendments Act of 2008.

- Empowering Michigan's citizens with disabilities to fully participate in the judicial system by exercising the rights and responsibilities expected of all citizens, such as jury service;
- Increasing the capacity of Michigan's courts to respond to accommodation requests and the specific needs of individuals with disabilities; and
- Enhancing the usability and accessibility of Michigan's courts for a broad range of people with and without disabilities.

## **PART I: An Overview of the Americans with Disabilities Act of 1990 (ADA) and the ADA Amendments Act of 2008.**

**Courts must provide equal access to all Michigan citizens with disabilities in an integrated setting, and must make reasonable accommodations when necessary, unless doing so constitutes an undue administrative or financial burden, or fundamentally alters the nature of court programs, services, and activities. Michigan courts must be aware of the basic minimum requirements for accessibility under the ADA, which include many different courtroom activities.**

### **The Americans with Disabilities Act (ADA)**

Congress passed the ADA in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." The ADA is the world's first comprehensive, national law protecting the civil rights of individuals with disabilities. At the time the ADA was passed, over 43 million Americans experienced some form of disability. In its lengthy findings about the necessity of the ADA, Congress stated that "the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity."

### **The ADA Amendments Act of 2008 (ADAAA)**

The primary purpose of the ADA Amendments Act of 2008, as stated in the "Findings and Purposes" section of the act is "... to carry out the ADA's objectives of providing a clear and comprehensive national mandate for the elimination of discrimination" and "clear, strong, consistent, enforceable standards addressing discrimination by reinstating a broad scope of protection to be available under the ADA." This "broad scope of protection" extends coverage under the ADAAA to individuals who were denied coverage as a result of limiting Supreme Court decisions.<sup>2</sup>

### **Equal Opportunity**

The goal of the ADA is to provide equal opportunity for people with disabilities. In the administration of justice, Michigan courts must provide an equally effective opportunity for people with disabilities to participate in the programs the court offers to citizens. The general principle underlying a court's obligations under the ADA is protecting the civil rights

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<sup>2</sup> Sutton v United Air Lines, Inc., 527 U.S. 471 (1999)  
Toyota Motor Manufacturing, Kentucky, Inc. v Williams, 534 U.S. 184 (2002)

of people with disabilities to enjoy and benefit from the services, programs, and activities provided to all people by the court system.

### **Defining Disability Pursuant to the ADA**

Under the ADA, an individual with a disability is a person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities. A physical impairment is defined as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine. A mental impairment is defined as any mental or psychological disorder, such as a developmental disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
2. Has a "record of" such impairment. For example, an individual with cancer may have taken significant time off from work for chemotherapy. Years later, a potential employer, noting the gap in employment, may not hire that individual even though the individual is currently not impaired in any way. The individual would be covered by the ADA because of the past "record of" a disability.
3. Being regarded as having such an impairment. An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter<sup>3</sup> because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

Not all physical or mental impairments constitute disabilities under the ADA, however in ADAAA, the definition of disability "shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter." For a physical or mental impairment to be defined as a disability, the impairment or a combination of impairments must substantially limit one or more major life activities. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Whether an individual has a disabling impairment depends on the particular facts of each individual case.

To determine if an impairment substantially limits a major life activity, the following factors should be considered:

1. The nature and severity of the impairment;
2. The permanent or long-term impact of the impairment; and
3. The duration of the impairment.

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<sup>3</sup> Title 42, Chapter 126

Thus, temporary, nonchronic impairments that have little or no long-term impact, such as broken limbs, sprained joints, concussions, appendicitis, and influenza, usually are not viewed as disabilities. For example, a broken leg, which is an impairment of relatively brief duration, would not be considered a disability. Nonetheless, courts should make accommodations for these types of impairments.

However, the residual impact of an improperly healed broken leg might be considered a disability. Likewise, a temporary psychological impairment is not considered a disability under the ADA, while a long-term or permanent impairment may be a disability.

ADAAA states that the determination of whether an impairment substantially limits a major life activity shall be made *without regard* to the ameliorative effects of mitigating measures such as:

1. Medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;
2. Use of assistive technology;
3. Reasonable accommodations or auxiliary aids or services; or
4. Learned behavioral or adaptive neurological modifications.

The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

The following conditions are specifically excluded from the definition of "disability": transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, pyromania, and psychoactive substance use disorders resulting from current illegal use of drugs.

### **Qualified Individual with a Disability**

Under the ADA, qualified individuals with disabilities must have equal access to court programs, services, and activities. An individual is qualified when he or she meets the essential eligibility requirements for participation.

When determining whether someone is qualified, courts must (1) make reasonable modifications to their policies, practices, and procedures; or (2) furnish auxiliary aids or services when necessary to ensure an equally effective opportunity to participate. However, a court is not required to take any action that would constitute an undue financial or administrative burden or fundamentally alter the nature of the program, service, or activity.

For example, a court may have a policy against bringing animals into a courtroom. If a woman who is blind is called as a potential juror and would need to bring her guide dog into the jury box, the court should make a reasonable modification of that policy and allow the juror to bring her guide dog. However, such a request could be a "fundamental alteration" in some instances. For example, if one party in a civil case has an extreme fear of dogs or has an attorney who objects to the presence of dogs on religious grounds, a court could find that the presence of the dog would fundamentally alter the court proceeding by infringing on the rights of an indispensable party or attorney in this case. Thus, a court may arrange to have the juror serve in another courtroom for another case, or excuse the juror.

Eligibility criteria for access to court programs, services, and activities, which tend to exclude persons with disabilities, must not be arbitrary or based on stereotype or speculation. Instead, this determination must be made on a case-by-case basis. For example, a potential juror who is blind may not be qualified to serve on a jury requiring visual perception, such as at a trial for forgery, but may be qualified to serve as a juror in other cases if provided with reasonable accommodations (e.g. written evidence could be provided in alternate format or by the provision of a reader).

A court may reject an accommodation request in which the individual with a disability is not otherwise qualified. For example, a court would not be required to provide a sign language interpreter for a potential juror if that juror did not meet the essential eligibility requirement of residency.

### **Activities Covered by the ADA**

Almost every activity conducted by a Michigan court is covered by Title II's mandate that state and local courts ensure that qualified individuals with physical or mental disabilities are afforded an equal opportunity to participate in court programs, services, or activities. Title II covers the juror selection system, trials, hearings, courthouse security procedures, and access to libraries, publications, internet sites, dispute resolution programs, and seminars offered by the court. Even if a trial or hearing is closed to the public, Title II applies if one of the participants has a disability. Title II also applies to the physical accessibility of courtrooms and courthouse structures.

The U.S. Supreme Court has broadly applied the "program access" requirement of Title II. In *Pennsylvania v. Yeskey*, 524 U.S. 206 (1998), the U.S. Supreme Court applied the ADA's use of the terms "services, programs, and activities" liberally to include a "motivational boot camp" offered for state prisoners. The Court held that state prisons were clearly subject to the ADA and that the boot camp was an ADA-protected, voluntary program by virtue of its definition in a Pennsylvania statute.

Certain internal administrative functions of the court that are not open to the public, such as regular staff meetings for courthouse personnel, are not covered under Title II. However, a court may have to provide reasonable accommodations to court employees with disabilities under the employment provisions of the ADA.

## **Integrated Settings**

Court programs, services, and activities must be provided to people with disabilities in the most integrated setting to the maximum extent feasible. The ADA's "integration mandate" provides that segregation and isolation are forms of discrimination and should be avoided to achieve equal opportunity. Sometimes, it may be necessary to provide access in an alternative manner. For example, a court may construct a fully accessible courtroom in a courthouse to accommodate people with disabilities. However, the court must ensure that this effort does not result in unnecessary segregation, i.e. the court must not reserve the accessible courtroom solely for cases involving people with disabilities.



## **PART II: Interacting With Persons With Disabilities**

### **General Considerations**

The most important thing Michigan court officials can do in their day-to-day interactions with people with disabilities is to treat them with the same courtesy, dignity, and respect that they afford everyone else. There is no need to be nervous or apprehensive in talking and working with people with disabilities.

A person with a disability may be able to access every feature in a courtroom but may be left out of court activities if court personnel exhibit negative or unhelpful attitudes to simple accommodation requests or requests for information. Eliminating these attitudinal barriers can help ensure that people with disabilities have full access to Michigan courts.

Some general tips<sup>4</sup> for communicating with people with disabilities are:

- Always direct communication to the individual with the disability. If the individual is accompanied, do not direct your comments to the companion.
- Use the same level of formality with everyone present.
- Relax. Do not be embarrassed if you happen to use common expressions like "See you later" or "Got to be running along" that seem to relate to the person's disability.
- It is appropriate to shake hands when introduced to a person with a disability. People who have limited use of their hand or who wear an artificial limb can usually shake hands. Shaking with the left hand is acceptable. For people who cannot shake hands, touch them on the shoulder or arm to welcome and acknowledge their presence.
- Focus on the individual and the issue at hand, not the disability.
- People with disabilities are interested in the same topics of conversation in which people without disabilities are interested.
- A person who needs you to speak in a louder voice will ask.
- People with disabilities, like all people, are experts on themselves. They know what they like, what they do not like, and what they can and cannot do. If you are uncertain what to do, ask. Most people would rather answer a question about protocol than be in an uncomfortable situation.
- Offer assistance in a dignified manner with sensitivity and respect. Be prepared to have the offer declined. If the offer is accepted, listen to, and accept, instructions.
- When mistakes are made, apologize, correct the problem, learn from the mistake, and move on.

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<sup>4</sup> Developed by the Georgia Commission on Access and Fairness in the Courts

- Let people provide information about their disability on their own initiative. They are not responsible for educating the public by sharing their story.
- Offer assistance but do not insist or be offended if your offer is not accepted.

### **Special Considerations for Judges in the Courtroom**

Judges are the embodiment of justice. Everyone looks to the court to ensure full and effective participation for people with disabilities. Top-level leadership and commitment are essential in developing an environment where access is not only a requirement but an expectation for all citizens.

- Judges should carefully evaluate requests for accommodation made by people with disabilities appearing in the courtroom. Although the court makes the final decision regarding the most appropriate accommodation for each particular situation, allow yourself to be educated by people about their disabilities. The individuals have experience and information regarding their disabilities and are usually able to suggest the best way to accommodate their needs.
- Use person-first language. Put the person ahead of the disability in order to communicate your recognition that the person's disability is not the most important part of the person's identity. For example, it is more polite to say "the juror with a disability" than "the disabled juror" or "the handicapped juror."
- Train your staff, including the court officers, to be sensitive to the needs of people with disabilities. Patience and flexibility are important because, just as with most other citizens, many people with disabilities will not be familiar with the procedures and practices of your court.

### **Using Person-First Language**

When communicating, use person-first language consistently. Person-first language recognizes that a person's disability is not the most important part of that person's identity.

- Using person-first language is an effort to be polite and sensitive and not an attempt to restrict the use of language.
- Put the person ahead of the identifier of the disability in a given sentence. For example, saying "people with disabilities" is more appropriate, thoughtful, and sensitive than saying "disabled people."
- Avoid language that is insulting or dehumanizing. Words like "crippled," "deaf-mute," "retarded," and "deformed," while once commonly used, are now considered offensive when applied to individuals with disabilities.
- To avoid repetitive usage in long documents, switch around the order of words that appear frequently on one page. For example, consider using "Michigan's citizens with disabilities" or "juror with a disability" but keep the person-first pattern consistent.

## **Interacting with People Who Are Deaf or Hard of Hearing**

Hearing loss among Michigan's citizens ranges from mild to profound. Most of Michigan's citizens with hearing loss can be accommodated in court when assistive listening devices are available. However, in certain situations, more individualized accommodations, such as Communication Access Realtime Translations (CART)<sup>5</sup> or sign language interpreters, are necessary to facilitate effective communication with the court. The Michigan Deaf Interpreters Act (1982 PA 204), in addition to the federal requirements under the Americans with Disabilities Act, provides for, and regulates the use of, interpreters for administrative and judicial proceedings. It also establishes standards and compensation for interpreters. <http://legislature.mi.gov/doc.aspx?mcl-393-507>

These are some guidelines to follow when interacting with people who are deaf or hard of hearing:

- There are a wide range of hearing losses and communication preferences. If you do not know the individual's preferred communication method, ask.
- Make direct eye contact. Natural facial expressions and gestures will provide important information to your conversation. Keep your face and mouth visible when speaking.
- Before speaking to a person who is deaf or hard of hearing, get the person's attention. To get a person's attention, call his or her name. If there is no response, lightly touch the person's arm or shoulder.
- If you are asked to repeat yourself several times, try rephrasing your sentence.
- Writing information down may facilitate communication.
- When speaking to a person who lip-reads or is hard of hearing, speak clearly. Do not exaggerate your speech. Shouting does not help communication.
- The role of a sign language interpreter is to facilitate communication between people who do not share a common language. Therefore, interpreters should not participate or be included in the communication outside of that role and function.
- Good lighting is important to facilitate clear communication.

Range of deafness and hard of hearing:

- Individuals who are hard of hearing or late deafened (those who became deaf after acquiring speech and language skills) may use hearing aids, cochlear implants, and/or assistive listening devices to support their residual hearing or they may not use any augmentative devices at all. They may use lip reading skills to facilitate one-on-one communication and may use sign language or oral interpreters in group settings. Individuals who are hard of hearing or late-deafened commonly use spoken English as a method of communicating verbally and may or may not know how to communicate with sign language.

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<sup>5</sup> Closed captioning for nonbroadcast settings, such as classrooms, churches, meetings, and conferences.

- Individuals who are "prelingually" or "culturally" deaf are those who were born deaf or became deaf before acquiring speech and language skills. They most likely will use American Sign Language (ASL) or a form of English sign language to communicate and may or may not have lip reading skills. Some individuals may use hearing aids or cochlear implants to augment residual hearing.
- Individuals who are deaf-blind are those who are deaf or hard of hearing and are also blind or have low vision (also called partial sight) that cannot be satisfactorily corrected with glasses, contacts, or surgery. They aren't necessarily profoundly deaf and totally blind; they may have "tunnel vision" and be hard of hearing. To communicate, they may use tactile sign language<sup>6</sup>, finger spelling<sup>7</sup>, or print-on-palm.<sup>8</sup> They may also require either close or far proximity for clarity of visual field or they may need an interpreter to sign in a small space. For written communication, individuals who are deaf-blind may rely extensively on Braille, a system of raised dots, to represent letters. Depending on the type of vision loss they have and if they communicate using sign language, these individuals may or may not have special requirements to accommodate their visual field and language needs.
- Some individuals who are deaf may have had only limited exposure to formal language (spoken or signed) and consequently are not fluent in ASL or English. They may or may not have an effective gestural communication form that can be used to give or receive information. Therefore, providing communication access for individuals who have minimal linguistic competency will be most challenging. This process can be facilitated by using a team of interpreters composed of a certified hearing interpreter working with a certified deaf interpreter. The Registry of Interpreters for the Deaf (RID) offers testing and certification as a Certified Deaf Interpreter (CDI). See the following for a detailed description of how a CDI can be used in a court context: <http://www.rid.org/UserFiles/File/pdfs/120.pdf>

### **Interacting with People Who Have Speech or Language Disorders**

Speech and language disorders are inability of individuals to understand and/or appropriately use the speech and language systems of society. Such disorders may range from simple sound repetitions and occasional misarticulations to the complete absence of the ability to use speech and language for communication. Speech and language problems can exist together or independently. Some causes of speech and language disorders include hearing loss, stroke, brain injury, a developmental disability, drug abuse, cleft lip or palate, and vocal abuse or misuse. Frequently, however, the cause is unknown.

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<sup>6</sup> Tactile signing is a common means of communication used by people with both a sight and hearing impairment, which is based on a standard system of deaf manual signs.

<sup>7</sup> Finger spelling (or dactylology) is the representation of the letters of a writing system, and sometimes numeral systems, using only the hands.

<sup>8</sup> Print-on-Palm (POP) is a simple method of communicating with a person who is deaf-blind and familiar with printed English.

Speech problems affect how the communication message sounds. There is a speech problem when so many speech sounds are distorted that the speaker cannot be understood, when there is no source of sound because the vocal cords have been surgically removed, or when stuttering disrupts the natural rhythm of the oral message. Speech disorders include fluency disorders, motor speech disorders, and voice disorders:

- A fluency disorder is an interruption in the flow of speaking characterized by atypical rate, rhythm, and repetitions in sounds, syllables, words, and phrases. This interruption may be accompanied by excessive tension, struggle behavior, and secondary mannerisms. Stuttering is a type of fluency disorder.
- A motor speech disorder is an impairment of speech arising from damage to the central or peripheral nervous system that can affect a person's speech, voice, and breath support for communication, and swallowing. Often, Parkinson's Disease, Huntington's Disease, and Amyotrophic Lateral Sclerosis (ALS) lead to motor speech disorders.
- A voice disorder is characterized by the abnormal production and/or absence of vocal quality, pitch, loudness, resonance, and/or duration, given an individual's age and/or sex. Vocal abuse and misuse are the most prevalent causes and preventable types of voice disorders.

Language disorders are the impaired comprehension and/or use of spoken, written and/or other symbol systems. Language refers to a code made up of a group of rules that cover what words mean, how to make new words, how to combine words, and what word combinations are best in what situations. A person who cannot understand the language code has a receptive language problem. A person who is not using enough language rules to share thoughts, ideas, and feelings completely and appropriately has an expressive language problem. One type of problem can exist without the other, but often they occur together in children and adults.

When interacting with people who have speech or language disorders, consider the following tips:

- Give the person your full attention. Don't interrupt or finish the person's sentences. Listen patiently and carefully.
- Do not assume that a person with speech impairment doesn't understand you.
- If you have trouble understanding, ask the person to repeat the statement. If, after trying, you still cannot understand, ask the person to write it down or suggest another way of facilitating communication.
- If necessary, repeat your understanding of the message in order to clarify or confirm what the person said.
- Provide a quiet environment to make communication easier.

## **Interacting with People Who Are Blind or Visually Impaired**

Blindness is the total or partial inability to see because of a disease or disorder of the eye, optic nerve, or brain. Legal blindness is defined as a visual acuity of 20/200 or worse with the best possible correction. Someone with a visual acuity of 20/200 can see at 20 feet what someone with normal sight can see at 200 feet.

Vision impairment means that a person's eyesight cannot be corrected to a "normal" level. It is a loss of vision that makes it hard or impossible to do daily tasks without specialized adaptations. Vision impairment may be caused by a loss of visual acuity where the eye does not see objects as clearly as usual. It may also be caused by a loss of visual field where the eye cannot see as wide an area as usual without moving the eyes or turning the head. Visual acuity alone cannot tell you how much a person's life will be affected by vision loss. It is important to also assess how well a person uses the vision he or she has. Two people may have the same visual acuity, but one may be able to use his or her vision better to do everyday tasks. Many people who are "blind" may have some usable vision that can help them move around in their environment and do things in their daily lives.

When interacting with people who are blind or visually impaired, consider the following tips:

- Identify yourself and address the individual by name so the person will know you are speaking to him or her.
- It is appropriate to ask, "Would you like me to guide you"? If your offer is accepted, let the person take your arm just above the elbow.
- Offer to read written information.
- Provide all standard printed information available to the public concerning court policies, practices, and procedures in an alternate format such as Braille, audio tape, electronic format, or large print. Efforts should also be made to provide information at kiosks or posted signage in an audible format.
- If the individual has a guide dog, walk on the side opposite the dog. As you are walking, describe the setting, noting any obstacles such as stairs ("up" or "down") and objects protruding from the wall at head level.
- Never pet a guide dog (or any other service animal) before getting permission from its handler to do so. The dog is working and must concentrate.
- If you need to leave a person alone, inform the person first and make sure there is a rail, wall, or something else he or she can touch.
- A person's cane is part of the individual's personal space, so avoid touching it. If the person puts the cane down, don't move it. Let the person know if it is in the way.

## **Interacting With People Who Have Mobility Limitations**

Mobility impairment involves the partial or complete loss of use of any of an individual's limbs. Mobility impairment refers to a broad range of disabilities that include orthopedic, neuromuscular, cardiovascular, and pulmonary disorders. Many things can cause mobility

impairment including disease (polio), spinal cord trauma (a motor vehicle accident), and disorders occurring at or before birth (cerebral palsy).

Many disabilities that cause mobility impairment are visible because individuals may rely upon assistive devices such as wheelchairs, scooters, crutches, and canes. Other disabilities that cause mobility impairments, such as arthritis, are invisible but need to be taken equally seriously.

When interacting with people who have mobility limitations, consider the following tips:

- Avoid touching or leaning on a person's wheelchair, scooter, or walking aid without permission. People with disabilities consider their mobility devices as part of their personal space.
- Be aware of an individual's reach limits. Place as many items as possible within the grasp of a wheelchair user. If a service counter is too high for a wheelchair user to see over, step around it to provide service. Also, have a clipboard available if filling in forms or providing signatures is expected.
- Sit down and/or position yourself at the same eye contact level when speaking with a wheelchair user for more than a few moments.
- Provide a chair for someone who has difficulty standing for an extended time.
- People who are not visibly mobility-impaired may have medical needs that impact their ability to get around the courthouse. For example, a person with a heart condition may have trouble walking quickly or long distances and may need chairs or benches to sit and rest on.

## **Interacting With People Who Have Cognitive Disabilities**

### Persons with Mental or Cognitive Disabilities

One of the most difficult matters Michigan courts face in accommodating persons with disabilities is in the area of mental illness or cognitive disability. Cognition refers to "understanding;" the ability to comprehend what you see and hear and the ability to infer information from social cues and "body language." People with these impairments may have trouble learning new things, making generalizations from one situation to another and expressing themselves through spoken or written language. Cognitive limitations of varying degrees can often be found in people who have been diagnosed with Attention Deficit Disorder (ADD), a developmental disability, autism, or a closed head injury.

Because the issues facing individuals with mental illness or cognitive disability often touch on basic rights, especially for criminal defendants, it is difficult to address them effectively in the scope of this handbook. What follows are three basic steps Michigan courts can take in their efforts to ensure that people with mental or cognitive disabilities have equal access to justice.

In many cases, courts must first determine whether an individual is a "qualified individual with a disability" under the ADA. For a criminal defendant, this will usually be a determination of whether the individual is competent to stand trial. In other situations involving a person with a mental disability appearing as a witness or as a potential juror, the court must determine whether or not that individual can carry out his or her duties in a courtroom. For example, if an individual is unable to understand testimony as a juror because of a developmental disability, or if an individual disrupts the courtroom frequently as a spectator because of behavioral problems or delusions, those individuals are not "qualified" and can be excluded from the courtroom. However, it is important to remember that a developmental disability or a traumatic brain injury will not always leave individuals unqualified to serve as witnesses, spectators, or jurors. Courts should conduct an individualized inquiry to determine whether an individual is "qualified."

Courts must next determine whether it is possible to provide reasonable accommodations for an individual with mental or cognitive disabilities without a fundamental alteration of court programs and services. Keep in mind that many people with mental or cognitive impairments may not be able to request accommodations effectively and may need assistance in constructing appropriate accommodation requests, whether from the court or from their legal representatives.

The third step is determining whether an individual with a mental or cognitive disability poses a "direct threat" to himself or others in the courtroom. The ADA requires Michigan courts to make a knowing, individualized determination - not based on myth, fear, or stereotype - of whether an individual poses a threat, and to consider any possible, available accommodations for this threat. Courts may choose to exclude individuals who pose a threat but only in a manner consistent with their civil rights and other protections.

The wide variance among the mental capabilities of those with cognitive disabilities (any disability affecting mental processes) complicates matters in the courthouse because a person with a developmental disability will not have the same needs as a person who has attention deficit disorder or autism. A person with profound cognitive disabilities will need assistance with nearly every aspect of daily living. Someone with a minor learning disorder, however, may be able to function adequately despite the disorder, perhaps even to the extent that the disorder is never discovered or diagnosed. It is important, however, not to approach an individual with any preconceived notions as to his or her specific capabilities. Not everyone who is slow speaking is cognitively impaired.

Many legal or courtroom-related terms and concepts are complex and may be difficult to understand. People with some form of cognitive disability, however, may be reluctant to disclose their disability or to disclose that they do not understand the information being presented. If you suspect that someone may be struggling to understand, ask, "This is very complicated. May I explain this in a different way that may make it easier to understand"? The use of simple, easily understood language will benefit all participants - not only people with disabilities.



When interacting with people who have cognitive disabilities, consider the following tips:

- Speak clearly and slowly and keep sentences short.
- Break complicated information or instructions down into shorter, distinct parts and avoid complex terms.
- If possible, use symbols, pictures, or actions to help convey meaning.
- Ask concrete, open-ended questions. Avoid "yes-no" answers.
- Allow for additional time to speak with participants and for them to respond.
- When necessary, repeat information using different wording or a different communication approach. Allow time for the information to be fully understood.
- Provide material on audiotape rather than in written form.

### **Service Animals**

In addition to people who are blind and may use guide dogs, other people with disabilities may use animals to assist them. For example, some individuals with limited manual dexterity may have a service animal retrieve or pick up objects for them.

When interacting with people who use service animals, consider the following tips:

- Avoid petting or touching a service animal while the animal is working.
- Do not feed a service animal or distract a service animal in any way.
- Do not separate an individual with a disability from his or her service animal.
- If the service animal misbehaves, or becomes out of the control of the person with the disability, that person is obligated to control the animal.
- The U.S. Department of Justice authored a [brochure about service animals](http://www.ada.gov/svcabrpt.pdf) that may be helpful in answering questions regarding service animals in Michigan courts. It is available online at: [\*\*http://www.ada.gov/svcabrpt.pdf\*\*](http://www.ada.gov/svcabrpt.pdf)

## **PART III: Establishing a Disability/Accommodation Protocol**

**Developing a protocol to handle disability accommodation requests is necessary to ensure that all Michigan's citizens have an equal opportunity to participate in court activities. A disability protocol in each court should establish a single point of contact for requests as well as guidance for providing accommodations in a timely manner.**

To ensure that all individuals with disabilities have a truly equal opportunity to participate in court proceedings, it is necessary to provide a means for these individuals to access the courts despite particular barriers they often face.

Courts can address this responsibility in various ways. One means is to preemptively modify court facilities or services in a way that is intended to provide access to individuals with certain disabilities. Consider blind individuals who want to visit a court system's website for case information. If the website is designed to interface with commonly available assistive technology, those individuals are consistently provided with a meaningful opportunity to utilize that court service without having to make a request for accommodation. Likewise, a court's installation of a commonly used assistive listening system will provide deaf individuals with a means to effectively communicate during court proceedings. Similarly, structural building alterations can provide accessibility to many people with varying disabilities. And, once accomplished, these types of actions generally require only periodic maintenance to facilitate use.

Another means by which courts address their responsibility to provide access to individuals with disabilities is through individualized accommodation requests that trigger case-by-case assessments to determine the appropriate course of action. Under the ADA, qualified individuals with ADA disabilities are eligible for individualized accommodations when necessary to ensure an equal opportunity to participate. And, if a particular accommodation is determined to be necessary, the court cannot pass any associated cost on to the individual.

To manage its responsibilities, each court should develop and implement a local protocol for addressing individualized requests. A protocol enables the court to:

- Utilize resource information for addressing common accommodation requests;
- Demonstrate to individuals with disabilities that their requests are being considered; and
- Methodically evaluate accommodation requests, without creating unnecessary administrative demands on busy court personnel that often result from unexpected requests.

## Developing the Accommodation Protocol

A protocol should include the following steps:

### **Step 1: Identify and train an ADA Coordinator for disability-related matters.**

Designating a knowledgeable ADA Coordinator is perhaps the most important step towards achieving compliance with the law. Courts that employ 50 or more persons are required to designate an ADA Coordinator to coordinate compliance efforts and investigate any complaints. Smaller courts are urged to designate a court administrator or other employee to serve as the ADA coordinator to handle issues arising in the courts. A court's ADA Coordinator should be prepared to perform four important roles:

- **Serves as Single Point of Contact:** The ADA Coordinator provides a single point of contact for people with disabilities who need accommodations to access court services. Identifying the ADA Coordinator in public notices and publications allows individuals with disabilities to contact one person with the knowledge and responsibility to handle accommodation requests.
- **Disseminates Information to Public and Within Court:** The ADA Coordinator serves as a central resource on disability issues for judges, administrators, court officers, clerks, other courtroom personnel, and citizens with disabilities. The ADA Coordinator should be familiar with the court's responsibilities under the law and should have access to the resources needed to respond to inquiries and accommodation requests.
- **Promotes Effective Communication About Accessibility and Requests for Accommodation:** The ADA Coordinator should have the authority and the willingness to promote effective communication among court judges and staff and members of the public about accessibility and requests for accommodation.
- **Support:** The ADA Coordinator provides or arranges for disability awareness training and technical assistance for court employees whose positions require that they respond to accessibility issues and requests for accommodation.

### **Step 2: Involve people with disabilities and disability-related organizations in proactively identifying potential and existing access barriers.**

Effective outreach will help educate the disability community on court programs, services, and activities as well as provide feedback to court personnel on ways to improve their customer service.

**Step 3: Establish a procedure for evaluating accommodation requests in a timely manner.**

A well drafted accommodation procedure should:

- Evaluate cases and circumstances on an individualized, case-by-case basis as expeditiously as possible;
- Eliminate unnecessary levels of review where possible. Court employees may receive impromptu requests, such as a request to escort a person who is blind to the appropriate courtroom, and the employees should be empowered to handle these requests;
- Maintain the confidentiality of medical information;
- Track all accommodation requests, including those requests that cannot be fulfilled, and document the process used to resolve each request.

The ADA Coordinator should maintain a resource and technical support database regarding disability issues to support implementation of the accommodation procedure.

Appendix B contains a Request for Accommodation form.

**Step 4: Educate all court personnel on the court's accessibility features and its accommodation protocol.**

The ADA Coordinator should be responsible for arranging training of all court personnel on accessibility features of all facilities as well as the court's accommodation protocol. The Human Resources or Personnel Office may assist the ADA Coordinator in tracking the completion of training modules by court personnel.

Appendix F contains a checklist of topics that are recommended to be covered in a court's training program. Court staff may also be referred to the SCAO DVD regarding the ADA at: <http://ustools.you-niversity.com/youtools/companies/mji/archivesLayout2.html>.

**Step 5: Notify the public regarding the court's accommodation process.**

Each court is required to provide information about its ADA-related responsibilities to all interested persons. A court can disseminate information about its disability accommodation protocol, including the name of its ADA Coordinator, in several ways: on its website, in its court rules, in juror summonses, and in publicly available information pamphlets. Notice to the public should reference the ADA's prohibition against discrimination and address the rights of individuals with disabilities under applicable laws.

## **Step 6: Implement a Grievance Procedure**

Courts must adopt and publish a grievance procedure for the prompt and equitable resolution of ADA-related complaints. The grievance procedure may be included in existing grievance procedures adopted by the court for any other purpose. The ADA provides sufficient latitude in this area that courts may choose to adopt alternative dispute resolution processes, such as third-party mediation, in their grievance procedures.

Appendix C contains a sample grievance procedure.

## **PART IV: Removing Common Barriers to Access - Communication**

### **Equally Effective Communication**

**Because so much of court business involves communicating information, effective communication is one of the most important and challenging responsibilities for Michigan courts. When courts do not communicate effectively with people with disabilities, it can have a serious detrimental effect on the administration of justice.**

Communication includes the exchange of information in all forms, including voice, sound, print, and electronic and information technology. Michigan courts should be aware of the types of disabilities that impact effective communication as well as the auxiliary aids and services that are often necessary to ensure effective communication.

To ensure an equal opportunity for individuals with disabilities to participate in the courtroom, it is necessary to acknowledge and remove the communication barriers people with disabilities often face. Disabilities that may affect an individual's ability to effectively communicate with the court include:

- Hearing
- Speech
- Vision
- Cognition

The court should assess each situation on an individualized, case-by-case basis, to determine if the court needs to provide auxiliary aids and services to ensure effective communication with people with disabilities. Examples of auxiliary aids and services used to accommodate people with disabilities are:

- Assistive listening devices
- Communication Access Realtime Translation (CART)
- Qualified sign language interpreters
- Telecommunications relay services
- Electronic mail
- Alternate formats for printed materials
- Accessible Internet sites

In selecting an auxiliary aid or service, courts should:

- Give primary consideration to the aid or service preferred by the individual because that individual is usually best able to identify the communication barriers that hamper participation.

- Allow people the opportunity to use their own assistive technology products to achieve effective communication. For example, a person with cerebral palsy who has difficulty with speech may use an augmentative communication device. Denying a person the opportunity to use such a device would deny effective communication. However, a court is not required to purchase such a device for a person with a disability who does not already have the device.
- Consider the context in which the communication is taking place and its importance:
  - If a plaintiff who is deaf requests a sign language interpreter for a scheduling hearing, it may be possible to provide effective communication through written notes, provided the plaintiff understands written English, the hearing is brief, the plaintiff is represented by counsel, and the plaintiff is able to participate effectively in the hearing.
  - However, when the information being communicated is complex or lengthy (for example a hearing to determine child custody), and the plaintiff who is deaf uses sign language to communicate, a qualified sign language interpreter is necessary for effective communication.

A court is not required to provide the requested aid or service if there is another equally effective means of communication available, or if the requested aid or service would result in a fundamental alteration in the service, program, or activity, or in undue financial or administrative burdens.

A court may not pass along to a person with a disability the cost of the aid or service in the form of a surcharge.

## **Auxiliary Aids and Services**

### **Assistive Listening Systems**

Assistive Listening Systems (ALS) are "binoculars for the ears." They increase the loudness of specific sounds and bring sounds directly into the ear. In addition, ALS "stretch" hearing aids and cochlear implants by improving their effectiveness in noisy environments, places having poor acoustics, and when there is a [big distance] from the speaker. ALS can utilize FM, infrared, or inductive loop technologies. All three technologies are considered good, and each one has advantages and disadvantages. Infrared systems guarantee privacy and are the appropriate choice for situations such as court proceedings that require confidentiality. Infrared systems work by transmitting sound via light waves in a 60-degree cone to receivers worn by users. Thus, the system is restricted to the room in which the equipment is installed. With the exception of high frequency lights and bright sunlight, there are few sources of interference with infrared systems.

Like all ALS, each infrared system has at least three components: a microphone, a transmission technology, and a device for receiving the signal and bringing the sound to the

ear. New Access Board ADA standards require receivers to have a jack to plug in a neck loop or a cochlear implant patch cord.

If a courtroom already has a microphone and a public address system for hearing people, it should be simple to patch in an infrared system. If a courtroom does not have a public address system, consideration should be given to the number of microphones to provide and who will use the microphones. Wireless microphones can be used with any system, thereby simplifying running cables around the courtroom. However, if security is an issue, wireless microphones are not secure.

ALS should also be considered for the jury room. Small, portable infrared systems are available with multiple microphones in addition to a table-mounted conference microphone.

Some microphones should have a mute switch, such as those used on the bench when a judge calls up attorneys for a private conversation.

### **Communication Access Realtime Translation (CART) Services**

Communication Access Realtime Translation (CART) is a word-for-word speech-to-text service for people who require communication access. People who are deaf, late deafened, hard of hearing, or who have cochlear implants benefit from CART because it provides a text display of speech that occurs in the courtroom. A CART provider uses a steno machine, notebook computer, and Realtime software to render instant speech-to-text translation on a computer monitor or other display media for an individual or group.

The E-Michigan Deaf and Hard of Hearing website offers information on CART providers in Michigan at: [http://www.michdhh.org/assistive\\_devices/cart.html](http://www.michdhh.org/assistive_devices/cart.html)

### **Sign Language Interpreters**

If it is necessary to utilize a sign language interpreter to facilitate effective communication, the ADA requires that the interpreter must be qualified. Being able to sign does not equate to being able to interpret. Someone who does not possess all the necessary interpreting skills to process spoken language into equivalent sign language and to process sign language into equivalent spoken language cannot provide effective communication. Therefore, a state or local court employee who can "sign pretty well" is not qualified to provide effective communication.

Since there are a number of sign language systems (signed English and American Sign Language are the most prevalent) used by individuals who are deaf or hard of hearing, individuals who use a particular system may not communicate effectively through an interpreter using a different system. Therefore, when an interpreter is required, state and local courts should provide a qualified interpreter who is able to equivalently interpret using the same sign system as the individual who is deaf.



A qualified interpreter must be able to interpret both receptively and expressively in sign language and in spoken English and must do so effectively, accurately, and impartially, using any specialized vocabulary necessary. Additionally, Michigan law requires that a sign language interpreter be certified by the Registry of Interpreters for the Deaf in particular proceedings.<sup>9</sup> See Appendix D for the Sign Language Interpreter's Code of Ethics from the Registry of Interpreters for the Deaf, Inc.

Under the ADA, it is the responsibility of state and local courts to provide a qualified interpreter. State and local courts may not require individuals who are deaf or hard of hearing to provide their own interpreters. The obligation to provide impartial interpreting services requires that, upon request, state and local courts provide an interpreter who does not have a personal relationship to the individual who is deaf or hard of hearing. In most situations, allowing friends or family members to interpret is inappropriate because their presence may violate the right to confidentiality or because a friend or family member may have an interest in the proceeding that is different from that of the individual who is deaf or hard of hearing.

It is often necessary to employ more than one interpreter during proceedings that are lengthy or complex. See Appendix D, Sign Language Interpreters in the Courtroom, for additional information for Michigan courts.

### **Text Telephone (TTY)**

Text telephone is a generic term for devices that provide access to real-time telephone communications for persons with hearing or speech impairments. Text telephones are also known as TTYs and TDDs (telecommunications devices for deaf persons). Like computers with modems, text telephones provide keyboards for typing conversations and visual displays for callers and receiving parties who are connected over standard telephone lines.

A call from one text telephone can only be received by another-and compatible-text telephone. The devices, however, can be used by and between both hearing and non-hearing persons. Two-way communications between individuals who use text telephones and those who do not is accomplished through 24-hour operator-assisted telecommunications relay services.

A court purchasing a TTY should include the dedicated TTY phone number on all court publications where the court's main telephone number is listed. If a court provides public telephone service, it should consider purchasing a TTY device for public use. If the court does not provide a public TTY, it should provide people with disabilities access to the court's TTY device on request.

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<sup>9</sup> MCL 393.508c

The U.S. Access Board has a helpful, on-line guide on using a TTY:  
<http://www.access-board.gov/adaag/html/>

### **Telecommunications Relay Services (TRS)**

Michigan courts can communicate with people who have difficulty using a telephone by using Telecommunications Relay Services (TRS). TRS enables standard voice telephone users to talk to people who have difficulty hearing or speaking on the telephone. TRS uses operators, called communications assistants, to facilitate the making of telephone calls by people who have difficulty hearing or speaking and who use assistive technology devices such as text telephones (TTY). Relay services are managed by the Michigan Relay program, administered under the Public Service Commission.

There are several types of TRS available. Any of these may be initiated by an individual with a hearing or speech disability, or by a conventional telephone user:

- **Text-to-Voice TRS** - A person using a TTY dials 7-1-1 to access an operator who places the call. The operator then relays the conversation by transmitting the text from the TTY display to the recipient through speech, and by transmitting the voice of the recipient to the TTY caller through text. Relay callers are not limited in the type, length, or nature of their calls. The TRS operator is bound by a confidentiality requirement not to disclose the content of any TRS call. Courts should train employees who are responsible for making and answering phone calls about the TRS system so they can communicate effectively with people using the system. When employees answer the phone and hear, "Hello, this is the relay service. Have you received a relay call before?" the employee should not hang up. They are about to talk to a person who is deaf, hard of hearing or has a speech disability.
- **Voice Carry Over (VCO) TRS** - VCO TRS enables a person who is hard of hearing but who wants to use his or her own voice, to speak directly to the receiving party and to receive responses in text form through the operator. No typing is required by the calling or the called party. This service is particularly useful to people who have lost their hearing but who can still speak.
- **Hearing Carry Over (HCO) TRS** - HCO TRS enables a person with a speech disability to type his or her part of the conversation on a TTY. The operator reads these words to the called party and the caller hears responses directly from the other party.
- **Speech-to-Speech Relay (STS)** - With STS, a person with a speech disability uses an operator specially trained in understanding a variety of speech disorders. The operator repeats what the caller says in a manner that makes the caller's words clear and understandable. No special telephone is needed for this option.
- **Video Relay Services (VRS)** - VRS enables individuals who use sign language to make relay calls through operators who can interpret their calls. The caller signs to the operator with the use of video equipment and the operator voices what is signed to the called party and signs back to the caller. This type of relay service is offered on a voluntary basis by certain TRS programs. This option is helpful for people who

use American Sign Language (ASL), and for people who cannot type on a TTY easily. The Michigan Relay Center also provides for people to make relay calls over the Internet through its website at <http://www.michiganrelay.com>.

- Electronic mail (E-mail) Electronic mail and text messaging have replaced telephone calls for many types of information exchange. Michigan courts should be encouraged to communicate with persons who have difficulty using a telephone by printing an e-mail address on court forms as an alternative to TTY or TRS services. Court employees should be willing to use office e-mail to answer questions or supply information to persons who have a hearing disability.

## **Public Service Announcements**

Courts may choose televised public service announcements to transmit messages to local residents. For example, the court may fund a message for broadcast on television stations about the local Court Appointed Special Advocates (CASA) program or may show a short orientation videotape to prospective jurors. In any multimedia production, courts should consider providing captions for any spoken content so that people who are deaf or hard of hearing can access the content.

There are two different types of captioning available. Open captioning displays the captions directly on the screen where all viewers can readily see the captions. The subtitles on foreign language movies are a form of open captioning. While open captions can be effective for people who are deaf and hard of hearing, the hearing population also relies on the captions in noisy venues such as airports, health clubs, and restaurants. However, open captioning can also be distracting for some viewers. Thus, closed captioning provides coded captions that are embedded in the video. Televisions manufactured after 1993 have a caption decoder chip that decodes the captioned video.

If courts work with a production company to create a video, it should be captioned. Most production companies have the capability to provide either open or closed captions on request. If the video is to be displayed in the courtroom, the court should be sure that the television where the video is to be displayed is equipped with closed captioning and that courtroom personnel have the training to set closed captioning options on request.

Another possible solution for courts without the funding to provide closed captioning is to present the video on a split-screen. The content of the video would be shown on one half of the screen, while a sign-language interpreter would interpret the spoken words on the other half of the screen. While this is a low-cost approach, it may not be as effective as captioning for long videos, or for persons who are hard of hearing and do not understand sign language.

## **Alternate Document Formats**

People with disabilities that affect their ability to read print may request print materials in alternate formats. Common examples of alternate formats include:

- **Audiotape:** Courts should make sure that any audiotape versions of documents are recorded in a way that is clear and understandable.
- **Braille:** Braille uses a system of raised dots to represent letters. Documents in Braille are embossed onto heavy paper and read by touch. A court may choose to purchase a Braille embosser and the necessary software to translate electronic documents into Braille, but it may be more convenient to contract this work out to an expert in Braille printing. Because the majority of people who are blind do not use Braille, however, it should not be the only type of alternate format provided.
- **Electronic Files:** Courts can use either a floppy disk or a CD-ROM to deliver electronic copies of documents depending on the technology needs of the person making the request. Documents should be saved on disk either in text format (.txt extension) or in Microsoft Rich Text Format (.rtf) extension unless the person requests a specific file format.
- **Large Print:** The minimum size for creating large-print documents is 18-point font, which can be easily produced on most word processors. However, a person with low vision may request a larger font. If the document is not available electronically, use the enlarging features on a copier to provide large print.

### **Accessible Websites**

Increasingly, electronic and information technology is the medium for the exchange of information. Many people with disabilities use "assistive technology" to enable them to use computers and access the Internet. People who are blind and cannot see computer monitors may use screen readers - devices that speak the text that would normally appear on a monitor. People who have mobility impairments and experience difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other disabilities may use still other kinds of assistive technology.

As it becomes more common to provide public services over the Internet, courts should be aware of potential barriers that people with disabilities face in accessing their Internet sites. Many researchers draw a parallel to the design of accessible buildings and the design of accessible websites. In both instances, making just a few changes can make the building or the website more accessible to people with disabilities. However, the changes that need to be made to an Internet site are less expensive and more easily implemented than installing a ramp or widening a door. Designers may not realize how simple features built into a web page will assist someone who, for instance, cannot see a computer monitor or use a mouse. Creating accessible Internet sites only appears more complicated because most people are not familiar with the computer code used to create websites.

An example of a barrier is a photograph of a courthouse on a court's website with no text identifying it. Because screen readers cannot interpret images unless there is text associated with it, a blind person would have no way of knowing whether the image is an unidentified photo or logo, artwork, link to another page, or something else. Simply adding a line of hidden computer code to label the photograph "Photograph of County Courthouse" will allow the blind user to make sense of the image.

Technology offers tremendous potential for Michigan courts to provide effective services. The U.S. Department of Justice suggests the following voluntary action plan for providing accessible websites:

- Establish a policy that your web pages will be accessible and create a process for implementation.
- Ensure that all new and modified web pages and content are accessible:
  - Check the HTML of all new web pages. Make sure that accessible elements are used, including alt tags, long descriptions, and captions, as needed.
  - If images are used, including photos, graphics, scanned images, or image maps, make sure to include alt tags and/or long descriptions for each.
  - If you use online forms and tables, make those elements accessible.
  - When posting documents on the website, always provide them in HTML or a text-based format (even if you are also providing them in another format, such as Portable Document Format (PDF)).
- Develop a plan for making your existing web content more accessible. Describe your plan on an accessible web page. Encourage input on improvements, including which pages should be given high priority for change. Let citizens know about the standards or guidelines that are being used. Consider making the more popular web pages a priority.
- Ensure that in-house staff and contractors responsible for web page and content development are properly trained.
- Provide a way for visitors to request accessible information or services by posting a telephone number or e-mail address on your home page. Establish procedures to assure a quick response to users with disabilities who are trying to obtain information or services in this way.
- Periodically enlist disability groups to test your pages for ease of use; use this information to increase accessibility.

A U.S. Department of Justice publication, "**Accessibility of State and Local Government Websites to People with Disabilities**," explains many of the issues involved in creating accessible websites. The publication is available online at the Department of Justice website <http://www.ada.gov/websites2.htm>.

## **PART V: Removing Common Barriers to Access - Facilities**

### **Facility Access**

#### **Existing Facilities**

If a courthouse is inaccessible, because doorways are too narrow, restroom facilities are inaccessible, or steps are the only way to get to all or portions of a facility, people with mobility, visual, and hearing impairments may not be able to fully participate in jury duty, attend hearings, and gain access to other services. Title II of the ADA calls on state and local courts to ensure that their programs, services, and activities are accessible to people with disabilities, even if located in older buildings, unless to do so would fundamentally alter a program, service, or activity or result in undue financial or administrative burdens. This requirement is called *program access*.

Program access may be achieved by a number of methods. While in many situations providing access to facilities through structural methods, such as alteration of existing facilities and acquisition or construction of additional facilities, may be the most efficient method, a court system may pursue alternatives to structural changes in order to achieve the necessary access. The court can:

- relocate the program or activity to an accessible facility;
- provide the activity or service in another manner that meets ADA requirements; or
- make modifications to the building or facility itself to provide accessibility.

However, when choosing among available methods of providing program accessibility, the court *must give priority to those methods that offer services, programs, and activities in the most integrated setting appropriate*. The Department of Justice *ADA Title II Technical Assistance Manual* includes the following illustration:

*D, a defendant in a civil suit, has a respiratory condition that prevents her from climbing steps. Civil suits are routinely heard in a courtroom on the second floor of the courthouse. The courthouse has no elevator or other means of access to the second floor. The public entity must relocate the proceedings to an accessible ground floor courtroom or take alternative steps, including moving the proceedings to another building, in order to allow D to participate in the civil suit.*

U.S. Department of Justice, ADA Title II Technical Assistance Manual, <http://www.usdoj.gov/crt/ada/taman2.html>

Program access is a workable requirement because it is reasonable. The State of Michigan ADA Coordinator [Patrick Cannon, director of the Michigan Commission for the Blind (MCB), Department of Labor & Economic Growth, also serves as state Americans with

Disabilities Act (ADA) coordinator] stands ready to assist courts in examining options and determining the most appropriate method(s) for achieving program access in a particular court setting.

## Setting Priorities

When accessibility-related architectural and structural improvements are planned, court systems must ensure that they meet applicable state and federal requirements, briefly outlined below.

If a court system cannot renovate or remove all inaccessible barriers, priority should be considered as follows:

- **Parking, Approach, and Entrance:** Access must be provided to the courthouse from parking areas, public sidewalks, or public transportation stops that abut or are located on court property. This can include installing accessible parking spaces, widening entrances, constructing ramps, or repairing sidewalks. If the main entrance to a courthouse cannot be made accessible, signage should be posted to direct visitors to the accessible entrance.
- **Public and Program Access:** Access must be provided to and within the rooms and spaces where court programs and activities are conducted, including:
  - **Courtrooms:** jury selection and juror assembly rooms, deliberation rooms, judges' benches, jury boxes, and witness stands, and stations used by clerks, court officers, deputy clerks, court reporters, litigants, and counsel. This access can include installing assistive listening systems, Braille signage, or fire alarms with visual alerts in one or more courtrooms, or installing an elevator in an inaccessible building;
  - **Supporting Facilities:** holding cells, restrooms, court floor holding cells, restrooms, visitation rooms, cubicles, and communication devices;
  - **Security Systems:** If metal detectors have been installed, provide an alternate means for people with disabilities who use mobility aids such as wheelchairs to pass through these systems such as the use of wands to conduct searches.
  - **Ancillary Areas and Restrooms:** A court must include access to public use areas serving the buildings, including cafeteria/snack bars and restrooms. Restroom access includes installing accessible stalls, providing insulation for exposed pipes carrying hot water, adjusting the location of coat hooks, or installing grab bars and raised toilets.
  - **Additional Considerations:** A court must take other necessary measures needed to remove barriers to accessibility. These measures can include installing accessible drinking fountains, installing no-slip surfaces where appropriate, and providing accessibility to offices not generally used by the public; and installing public telephones with volume control mounted at an accessible height.

Where existing space and cost constraints hamper efforts to ensure full accessibility, courts should take the following simple steps to reduce or eliminate situations that may pose unnecessary barriers:

- Utilize the court's disability/accommodation protocol to better anticipate when alternative arrangements or relocation may be necessary to ensure that an individual with a disability has the opportunity to fully participate; and
- Regularly maintain the court's existing architectural, mechanical, and physical accessibility features. If accessibility must be disrupted to perform required maintenance, the work should be scheduled during off hours if possible.

### **Historic Preservation**

Michigan has many historic county courthouses that represent the importance of justice in the state's rich history. Courts may face significant challenges in making historic courthouses accessible for people with disabilities while preserving the historic character of these structures. The ADA does not exempt historically significant facilities from coverage. If any alterations are made to a historic courthouse - for example, installing an accessible bathroom or water fountain - a court must follow either the ADA accessibility standards or the Uniform Federal Accessibility Standards to the maximum extent feasible. If following these standards would result in damage to the historic significance of the courthouse, alternative standards that provide "a minimal level of access" may be used. The ADA provides that public entities are not required to make structural changes to historic facilities if doing so would "threaten or destroy" the historical significance of the property. This provision applies only to properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under state or local law.

Courts should consult their local historic district office or the Michigan State Historic Preservation Office regarding such modifications. Members of the community, including people with disabilities, should be invited to participate in whatever process the court uses to make decisions.

Under the program access requirement, if court services cannot be offered to citizens with disabilities in historically significant structures, then the programs or services conducted in the facility must be offered in an alternative accessible manner or location when needed. For example, a rural county court that holds hearings in an inaccessible county courthouse may move proceedings to an accessible courtroom in a city-owned building.

### **New Construction and Alterations**

Newly constructed or structurally altered court buildings must be designed and constructed in compliance with federal and state accessibility requirements. Courts should be aware that there can be differences between state and federal requirements in their source, their content, and their legal effect.



## Standards and Guidelines

- Michigan Law: Utilization of Public Facilities by the Physically Limited Act of 1966 governs the accessibility of newly constructed or remodeled buildings in Michigan. <http://legislature.mi.gov/doc.aspx?mcl-Act-1-of-1966>
- Federal Law: The U.S. Architectural and Transportation Barriers Compliance Board (Access Board) develops and maintains accessibility guidelines for buildings and facilities. When the Access Board's guidelines are adopted in the U.S. Department of Justice (DOJ) regulations implementing the ADA, they become enforceable ADA standards.

DOJ has adopted standards for generic spaces and elements (such as entrances, hallways, doorways, toilet facilities, and parking spaces)(<http://www.ada.gov/adastd94.pdf>). These standards are enforceable for Courts. However, DOJ has not yet adopted standards for elements and spaces that are unique to judicial facilities, such as jury boxes, witness stands, and holding cells.

The Access Board has developed a new set of guidelines that address generic spaces and elements as well as those that are unique to different types of facilities. These supersede the previous Access Board guidelines. DOJ intends to consider adoption of the new guidelines as a package, including both the generic and the unique elements. In the interim, courts must follow DOJ's standards for generic spaces and may adapt these standards in designing unique element/spaces.

### **Guidelines for Courtroom Accessibility**

The new ADA-ABA guidelines address access to both public and restricted or secured areas of courthouses and judicial facilities, including:

- **Entrances:** The guidelines cover access to public entrances and to entrances that are restricted for use by courthouse personnel and detainees. Features that control use, such as intercommunication devices for controlled entry, are addressed so that they are accessible to people with hearing or vision impairments. These devices, where provided, are required to have audible and visual signals. Certain exemptions are provided for entrances and doors used only by security personnel. In addition, access through or around security screening systems, such as metal detectors, is addressed for people who use mobility aids.
- **Courtrooms:**
  - *Jury Boxes and Witness Stands.* Jury boxes and witness stands in each courtroom are required to be accessible. Where such spaces are elevated, a ramp or platform lift is necessary to provide an accessible route for people unable to use steps. Sufficient space as detailed in the guidelines is required for people who use wheelchairs or other mobility devices. Such space is to be located within the defined area of jury boxes and witness stands.

- *Judges' Benches and Courtroom Stations.* The guidelines also cover access to judges' benches and courtroom stations used by court personnel or litigants, such as clerk and court officer stations. Since these spaces are used mainly by employees, the guidelines allow access to be provided on an as-needed basis, provided that certain conditions are met to facilitate post-construction adaptations. For example, steps to a judge's bench are permitted if wiring and other features to support later installation of a platform lift are included in the design.
  - *Spectator Areas.* Spectator seating in courtrooms is subject to criteria covering assembly areas generally. These provisions specify a minimum number of wheelchair spaces according to the seating capacity. Technical criteria for wheelchair spaces address the minimum size and connection by an accessible route.
  - *Assistive Listening Systems.* Assistive listening systems provide access for people who are hard of hearing by enhancing the sound signal of audio amplification systems through a receiver. These systems are required in each courtroom to ensure access for people with hearing impairments to court proceedings, whether they are participants or observers. Assistive listening systems are generally categorized by their mode of transmission. There are hard-wired systems and three types of wireless systems: induction loop, infrared, and FM radio transmission. Not all technologies may be suitable for courtrooms. For example, infrared technology is typically a better choice than an FM system where confidential transmission is important.
- **Jury Rooms and Assembly Areas:** The guidelines cover access to rooms and spaces used for jury selection and for deliberations by empanelled jurors. An accessible route must serve these spaces and certain elements, where provided, such as drinking fountains and refreshment counters, must comply with applicable access criteria.
  - **Holding Cells:** Holding cells or rooms within courthouses are required to be accessible. The new ADA guidelines are written to cover cells individually serving courtrooms as well as central holding facilities within a courthouse. Design criteria are provided for elements that may be provided within cells, such as toilets and benches.

## Appendix A:

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### Disability Resources

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Local disability resources can be found easily using the following link to the Michigan Disability Resource Directory. In this appendix, only national and state resources are listed. <http://mdrd.state.mi.us/>

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### Building Capacity: Resources

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#### General

##### **The National Center for State Courts**

ADA Resource Center for State Courts

300 Newport Avenue

Williamsburg, VA 23185

(757) 259-7590 Phone

(757) 564-2075 Fax

Web: <http://www.ncsconline.org>

##### **U.S. Department of Justice**

950 Pennsylvania Avenue, NW

Civil Rights Division

Disability Rights Section - NYAV

Washington, D.C. 20530

(800) 514-0301 Phone

(202) 307-1198 Fax

Web: <http://www.usdoj.gov/crt/ada/>

##### **American Bar Association**

Commission on Mental and Physical Disability Law

740 15th Street, N.W.

Washington, DC 20005-1019

(202) 662-1000 Phone

E-mail: [www.cmpdl@abanet.org](mailto:www.cmpdl@abanet.org)

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## Deaf and Hard of Hearing Resources

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### **Self Help for Hard of Hearing People, Inc.**

7910 Woodmont Avenue, Suite 1200

Bethesda, Maryland 20814

(301) 657-2248 (Voice)

(301) 657-2249 (TTY)

Web: <http://www.shhh.org/>

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## Interpreting Services

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### **Interpreter Referral Agencies**

#### **Division on Deaf and Hard of Hearing**

Michigan Commission on Disability Concerns

Department of Labor & Economic Growth

201 N. Washington Square, Suite 150

Lansing, MI 48913

(877) 499-6232 V/TTY (toll-free)

(517) 335-6005 V/TTY

(517) 335-7773 FAX

VP 866-939-3853 or IP: DODHH.net

[dodhh@michigan.gov](mailto:dodhh@michigan.gov)

<http://www.mcde-dodhh.org>

**Michigan Online Interpreter System**

#### **Michigan Association for Deaf and Hard of Hearing (MADHH)**

5236 Dumond Ct., Suite C

Lansing, MI 48917-6001

In MI: (800) YOUR-EAR (968-7327)

(517) 487-0066 Phone

(517) 487-2586 Fax

[info@madhs.org](mailto:info@madhs.org)

<http://www.madhh.org>

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## Blind Community Resources

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### **MCB Office Locations & Staff Directory: Michigan Commission for the Blind**

The Michigan Commission for the Blind (MCB) Central Administrative Office and the Library Service for the Blind and Physically Handicapped are both in Lansing. The residential MCB Training Center is in Kalamazoo. MCB Regional Offices are located in Detroit, Escanaba, Flint, Gaylord, Grand Rapids, Kalamazoo, Lansing, and Saginaw. Office contact information is listed below:

#### **CENTRAL ADMINISTRATIVE OFFICE**

Michigan Commission for the Blind

201 N. Washington, 2nd Floor

P.O. Box 30652

Lansing, MI 48909

(517) 373-2062 Voice

(517) 335-5140 Fax

(517) 373-4025 TTY

#### **Toll-Free Numbers:**

1-800-292-4200 (voice, answered in Lansing)

1-800-323-2535 (voice, answered in Escanaba)

1-888-864-1212 TTY

#### **DETROIT REGIONAL OFFICE**

Michigan Commission for the Blind

Cadillac Place

3038 W. Grand Blvd.

Suite 4-450

Detroit, MI 48202-6038

(313) 456-1646 Phone

(313) 456-1645 Fax

#### **ESCANABA REGIONAL OFFICE**

Michigan Commission for the Blind

State Office Building, 1st Floor

305 Ludington

Escanaba, MI 49829

(906) 786-8602 Phone

(906) 786-4638 Fax

#### **FLINT REGIONAL OFFICE**

Michigan Commission for the Blind

Flint State Office Building

125 E. Union, 7th Floor

Flint, MI 48502

(810) 760-2030 Phone

(810) 760-2032 Fax

**GAYLORD REGIONAL OFFICE**

Michigan Commission for the Blind

209 W. First Street, Suite 102

Gaylord, MI 49735

(989) 732-2448 Phone

(989) 731-3587 Fax

**GRAND RAPIDS REGIONAL OFFICE**

Michigan Commission for the Blind

State Office Building, 4th Floor

350 Ottawa Ave., N.W.

Grand Rapids, MI 49503

(616) 356-0180 Phone

(616) 356-0199 Fax

**KALAMAZOO REGIONAL OFFICE**

Michigan Commission for the Blind

1541 Oakland Drive

Kalamazoo, MI 49008

(269) 337-3875 Phone

(269) 337-3872 Fax

**LANSING REGIONAL OFFICE**

Michigan Commission for the Blind

201 N. Washington, 2nd Floor

P.O. Box 30652

Lansing, MI 48909

(517) 373-6425 Phone

(517) 335-0254 Fax

**SAGINAW REGIONAL OFFICE**

Michigan Commission for the Blind

Jerome T. Hart Building

411 E. Genesee

Saginaw, MI 48607

(989) 758-1765 Phone

(989) 758-1405 Fax

**LIBRARY SERVICE FOR THE BLIND AND PHYSICALLY HANDICAPPED**

(Located two blocks west of the State Capitol, with parking entrance on Kalamazoo between Pine and Butler)

Michigan Library & Historical Center Building

First Floor

702 West Kalamazoo St.

P.O. Box 30007

Lansing, MI 48909-7507

(517) 373-5614 Phone

1-800-992-9012 Toll-free phone

1-800-726-7323 In State Fax  
(517) 373-5865 Out of State Fax

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## Mental Health and Cognitive Disabilities Resources

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### **The Bazelon Center for Mental Health Law**

1101 15th Street, NW Suite 1212  
Washington, DC 20005  
(202) 467-5730 Phone  
(202) 223-0409 Fax  
Web: <http://www.bazelon.org/>

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## Facility-Related Resources

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### **U.S. Department of Justice**

950 Pennsylvania Avenue, NW  
Civil Rights Division  
Disability Rights Section - NYAV  
Washington, D.C. 20530  
(800) 514 -0301 Phone  
(202) 307-1198 Fax  
Web: <http://www.usdoj.gov/crt/ada/>

### **U.S. Architectural and Transportation Barriers Compliance Board (Access Board)**

331 F Street, NW, Suite 1000  
Washington, DC 20004-1111  
(800) 872-2253 (v)  
(800) 993-2822 (TTY)  
(202) 272-0081 (fax)  
E-mail: [info@access-board.gov](mailto:info@access-board.gov)  
Web: <http://www.access-board.gov/>

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## Advocacy Services

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**Michigan Protection and Advocacy Services - Web: <http://www.mpas.org>**

Michigan Protection and Advocacy Service -- Lansing Office  
4095 Legacy Parkway, Suite 500  
Lansing, MI 48911-4263  
1-800-288-5923 Phone (Toll Free)  
(517)487-1755 Alternate phone  
(517)487-0827 Fax



Michigan Protection and Advocacy Service -- Livonia Office  
29200 Vassar Blvd., Suite 200  
Livonia, MI 48152-2116  
1-800-414-3956 Phone (Toll Free)  
(248)473-2990 Alternate Phone  
(248)473-4104 Fax

Michigan Protection and Advocacy Service -- Marquette Office  
129 West Baraga Ave., Suite A  
Marquette, MI 49855-4644  
1-866-928-5910 Phone (Toll Free)  
(906)228-5910 Alternate Phone  
(906)228-9148 Fax

## **Appendix B: MC 70 - Request for Reasonable Accommodation**

## **SCAO Model Policy: Requests for Accommodations by Persons with Disabilities.**

1. **[Policy]** It shall be the intent of the \_\_\_\_\_ court to assure that qualified individuals with disabilities have equal and full access to the judicial system by providing a written accommodations policy. Nothing in this policy shall be construed to limit, invalidate, or expand the remedies, rights, and procedures accorded to any qualified individual with disabilities under state or federal law.
  
2. **[Definitions]** The following definitions shall apply under this policy:
  - a. “An individual with a disability” means a person covered by the Americans with Disabilities Act of 1990 (42 USC 12101 *et seq.*) and the ADA Amendments Act of 2008, and includes individuals who have a physical or mental impairment that substantially limits one or more major life activities; have a record of such an impairment; or are regarded as having such an impairment.
  
  - b. “Qualified Individual with a Disability” means a person who meets the essential eligibility requirements for participation. This not only includes persons involved in a case, such as lawyers, parties, witnesses, or jurors, but also includes spectators or anyone else who is eligible to participate in a program, service, or proceeding in a court in Michigan.
  
  - c. “Accommodation(s)” may include, but are not limited to, making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to qualified individuals with disabilities, auxiliary aids and services, which may include equipment, devices, materials in alternative formats, and qualified interpreters or readers; and making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals with disabilities requesting accommodations. In order to ensure that court services are accessible, access may be provided by various methods, including alteration of existing facilities, acquisition, or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate sites. This court will consider the expressed choice of the individual requesting the accommodation to facilitate effective communication. This court will not place a surcharge on a particular individual or group of individuals to cover the cost of accommodation.
  
  - d. “Policy” means the procedures set forth in this document regarding requests for accommodations in \_\_\_\_\_ [name of court] by qualified individuals with disabilities.
  
3. Confidentiality applies to the identity of the applicant in all oral or written communications, including all files and documents submitted by an applicant as part of the application process.

4. **[Procedure]** The following procedure for requesting accommodations is established:
  - a. Applications requesting accommodations pursuant to this policy may be presented in writing, on a form approved by the State Court Administrative Office and provided by the court, or orally as the court may allow. Applications should be made to the \_\_\_\_\_ [identify ADA Coordinator or court staff designated to coordinate requests for accommodations] at the [specify location of the office of the ADA Coordinator].
  - b. All applications for accommodations shall include a description of the accommodation sought along with a statement of the functional impairment that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the qualifying impairment.
  - c. Applications should be made as far in advance of the requested accommodation implementation date as possible.
  - d. Upon request, this court shall maintain the application form in a separate, confidential file so as not to reveal the identity or other information contained in the application for accommodation.
5. **[Permitted communication]** If the applicant is a party in a pending case, the communications with the court concerning the application shall deal only with the accommodation(s) necessary to provide access and shall not deal in any manner with the subject matter or merits of the proceedings before the court.
6. **[Grant of accommodation]** This court shall grant an accommodation as follows:
  - a. In determining whether to grant an accommodation and what accommodation to grant, the court shall consider, but is not limited by, the applicable provisions of the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, Section 504 of the Rehabilitation Act of 1973, the state Deaf Persons Interpreters Act, 1982 PA 204; The Michigan Handicapper Civil Rights Act, 1976 PA 20; and the Elliott-Larsen Civil Rights Act, 1976 PA 453.
  - b. The court shall inform the applicant in writing, or other accessible format needed by the applicant, of the reasons a request for accommodation is either granted or denied.
7. **[Denial of accommodation]** An application may be denied only if the court finds that:
  - a. The applicant has failed to satisfy the requirements of this policy; or

- b. The requested accommodation(s) would result in a fundamental alteration in the nature of the program, service, or activity, or create an undue financial or administrative burden on the court.
8. **[Review procedure]** An applicant whose request for accommodation has been denied or granted may seek review of a determination made by nonjudicial court personnel within five days of the date of the notice of denial or grant by submitting a request for review to the chief judge.
9. **[Duration of accommodations]** The accommodations by the court shall commence on the date indicated in the notice of accommodation and shall remain in effect for the period specified in the notice of accommodation. The court may grant accommodations for indefinite periods of time or for a particular matter or appearance.

[Adopted effective \_\_\_\_\_]

## **Appendix C: Model Local Administrative Order**

Model Local Administrative Order 35 – Requests for Accommodations  
by Persons with Disabilities

<http://courts.michigan.gov/scao/resources/other/lao.htm#accommodations>

## **Appendix D: Grievance Form**



**(Name of Court)**  
**Americans with Disabilities Act**  
**Grievance Form**

Please provide the following information:

1. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

2. Date the aggrieved action occurred or was observed: \_\_\_\_\_

3. Name and location of the court program or service involved that is the subject of the complaint.

Name of program or service: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State \_\_\_\_\_ Zip code: \_\_\_\_\_

4. Name(s) of the Court employee with whom you made contact regarding the subject of this grievance:

\_\_\_\_\_  
\_\_\_\_\_

5. Describe why you believe you are the victim of discrimination on the basis of disability in the delivery of (Name of court) programs and services:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Grievant

Date: \_\_\_\_\_

## **Appendix E: Sign Language Interpreters in the Courtroom**

### ***Are there credentialing and ethics considerations for sign language interpreters?***

Yes. According to current Michigan law,<sup>10</sup> the designated sign language interpreter in legal settings must be certified through the national registry of interpreters for the deaf (RID) or certified through the state by the Division on Deaf and Hard of Hearing of the department of Labor and Economic Growth. RID-certified interpreters are bound by the RID Code of Ethics and the Michigan Code of Professional Responsibility for Court Interpreters. Additionally, The National Center for State Courts' Model Code of Professional Responsibility for Interpreters in the Judiciary can be used as a guide for interpreter conduct and responsibilities.

### ***What is the duty of a certified interpreter?***

Sign language interpreters are officers of the court who are appointed to provide interpreting services for court proceedings. The duty of the interpreter is to interpret the spoken and signed proceedings accurately while maintaining the integrity of the communication. The interpreter must execute this role with total absence of bias and must maintain strict confidentiality.

### ***How do I locate a certified interpreter?***

This technical handbook contains a list of some of the interpreting services brokers/agencies in Michigan. You can also contact the State Court Administrative Office (SCAO) for additional information. The Registry of Interpreters for the Deaf web site at <http://www.rid.org> lists certified members as well as the Michigan Registry of Interpreters for the Deaf at <http://www.mirid.org/>

### ***How much lead time do I need to locate a certified and experienced legal interpreter?***

The shortage of sign language interpreters for any setting is problematic nationally and the scarcity of those who are actually qualified to work in legal and judicial settings is even more severe. Hence, the more lead time an agency has to secure a qualified legal interpreter, the better the chance of finding one. Given the unpredictability of need in legal and judicial settings, it is imperative that attorneys, clerks, law enforcement, etc. inform the Court of the need for an interpreter as soon as possible. Outside of the mandated Court appearances that must be done within a specific time frame, flexibility in scheduling Court appearances, trials, hearings, etc., will increase the chances that a qualified interpreter or team of interpreters will be found.

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<sup>10</sup> MCL 393.502, MCL 393.503a

***Why do I need more than one interpreter?***

Because of the length or complexity of most legal assignments, a team of two or more interpreters will be necessary in order to ensure the integrity of the court's record.

***How will a team of interpreters work in court?***

When working as a team for the proceedings, interpreters will work in teams of two or more. Interpreting is more mentally and physically demanding than most people realize and the first thing to suffer as a result of interpreter fatigue is accuracy. Therefore, when working as a team, the interpreters will engage in a system of monitoring to ensure the quality of the process. This process requires the support interpreter to provide the working interpreter with small bits of information that may have been missed. However, if a substantive point has been missed, the interpreters will immediately inform the court of the omission. During the proceedings, the interpreters will utilize written notes to ensure consistency in the process and to provide feedback to one another. At the end of the proceedings, the interpreters will make these notes available to the court. The interpreters infrequently may also need clarification or repetition from the court or may need to confer with one another regarding the process and will inform the court if the need arises.

***Should the Sign Language Interpreters be administered an Oath?***

Yes. Sign Language Interpreters should be administered an Interpreter's Oath prior to the start of the proceedings and before counsel make their appearance for the record:

**Suggested 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 Professional Conduct for Interpreters in Michigan courts, follow all official guidelines established by this court for legal interpreting, and discharge all of the solemn duties and obligations of legal interpretation?”

The provision of an interpreter by an agency does not absolve the court from determining whether an interpreter is qualified. Therefore, qualifying the interpreter at this time will ensure the interpreter's credentials, experience and skills are satisfactory to all parties. This bulletin contains a list of questions to consider when qualifying interpreters. Lastly, interpreters should disclose for the record any prior professional and/or social contacts with the person who is deaf.

***What is American Sign Language (ASL)?***

ASL is a naturally occurring language with its own distinct syntax, grammar, and sentential structure. ASL is comparable in complexity and expressiveness to spoken languages. It is not a form of English. Most culturally deaf people regard ASL as their natural language, which reflects their cultural values and keeps their traditions and heritage alive. It is used mainly in North America.

***How does the sign language interpreting process work?***

Proceedings interpreters are on duty throughout the proceedings to interpret the proceedings and will function as officers of the court.

Counsel table interpreters may also be present during the proceedings. Seated between the attorney and client, the counsel table interpreter will interpret all communications between the attorney and client during the proceedings and will interpret as needed for other non-proceeding interchanges. Counsel table interpreters may or may not serve as monitors of the proceedings interpreters.

Proceedings interpreters are occasionally requested by the court to also serve as interpreters for a deaf defendant and attorney or a deaf plaintiff/victim and prosecuting attorney. While this is not an ideal situation, interpreters, as officers of the court, serve at the court's discretion and will make every effort to accommodate the court. However, there may be situations where serving in a dual capacity would be inappropriate or would pose a potential conflict of interest. If this is the case, the interpreters will inform the court of the potential conflict.

When the interpreter addresses the court, the interpreter will speak in third person in order to indicate for the record that it is the interpreter speaking. When a person who is deaf addresses the court in sign language, the interpreter will interpret in spoken English and will use first person to indicate for the record that it is the person who is deaf speaking.

It is impossible to sign and speak at the same time when addressing the court because American Sign Language (ASL) and English are grammatically dissimilar languages. Therefore, if working with a team interpreter, one interpreter will address the court while the other interpreter will continue interpreting. Depending on the setting, bench conferences may be more appropriate and will be requested as necessary. Courts should hold all bench conferences on the record. If working alone, the interpreter will address the court without signing. The person who is deaf will have been informed that this situation could occur.

The proceedings interpreters must maintain an appearance of neutrality at all times and avoid unnecessary discussions with counsel, parties, witnesses, and interested parties both inside and outside the courtroom. If others make this problematic for the interpreters, the interpreters will request assistance from the court regarding possible instructions from the court to the parties involved. In light of this requirement, the interpreters may need to have a room or place reserved to retire to during breaks to avoid unnecessary interaction with others.

At times, there will be information that is not interpreted such as the swearing in of the interpreters, sidebar conversations, and attorney-client discussions.

***What are some of the logistical considerations?***

Depending on the individual who is deaf and the specific situation, there may be particular linguistic and procedural issues, logistics, positioning, etc. that will need to be addressed with the court during a brief, pre trial conference.

Sign language interpreters are positioned in the courtroom differently from spoken language interpreters. Because ASL is a visual language, the interpreter must be placed in front of the person for whom they are interpreting. If a team of two interpreters has been appointed, the second interpreter will need to take a position in the sightline of the first interpreter, preferably behind and slightly to the side of the deaf individual. The interpreters request that they be allowed some time prior to the commencement of the proceedings for appropriate positioning to be determined. In doing so, the interpreters will make every effort to ensure that all sightlines in the well of the court are preserved.

When two interpreters are working as a team, the support interpreter will relieve the working interpreter every twenty minutes or so. The interpreters will make every effort to do this during a natural pause and will do so as inconspicuously as possible. As happens when working between spoken languages, occasionally there will be a lack of direct equivalence between English and ASL. Consequently, the interpreter may require a longer period of time to provide an equivalent spoken or signed interpretation. Therefore, if the interpreter is still working after someone has stopped signing or speaking, it is usually a function of this linguistic process. Because of the visual nature of the interpreting process, the interpreters respectfully request that care be given when positioning exhibits or moving about the well of the courtroom to avoid impeding the sightlines.

***What are the special considerations when interpreting for jury duty?***

Interpreters for jury duty are present only to provide interpreting services during preliminary instructions, voir dire, and, upon empanelment, judicial proceedings, instructions, and deliberations. The interpreters are not a party in the case, have no interest in the case, and will remain completely neutral.

Interpreters are prohibited from being involved in any manner other than to provide interpreting services as noted above. Interpreters are not allowed to converse with any member of the jury panel outside of the interpreting process. Interpreters are prohibited from engaging in discussions about or commenting on the judicial process or proceedings. All questions will be referred to the appropriate court official.

During deliberations, interpreters are present to carry out their responsibilities and duties as court interpreters and officers of the court. Consequently, they are only permitted to interpret the conversations and discussions among jurors. They are not permitted to interject their opinions, thoughts, or questions. They are not permitted to speak with any of the jurors on their own behalf. Their sole purpose in being present is to interpret.

### **Sign Language Interpreter's Code of Ethics**

The Registry of Interpreters for the Deaf, Inc. has set forth the following tenets of ethical behavior to protect and guide interpreters and hearing and deaf consumers. Underlying these principles is the desire to ensure for all the right to communicate. This Code of Professional Conduct applies to all members of the Registry of Interpreters for the Deaf, Inc. and to all certified non members.

1. Interpreters adhere to standards of confidential communication.
2. Interpreters possess the professional skills and knowledge required for the specific interpreting situation.
3. Interpreters conduct themselves in a manner appropriate to the specific interpreting situation.
4. Interpreters demonstrate respect for consumers.
5. Interpreters demonstrate respect for colleagues, interns, and students of the profession.
6. Interpreters maintain ethical business practices.
7. Interpreters engage in professional development.

### **Resources for Sign Language Interpreters**

#### **Department of Labor and Economic Growth, Michigan Commission on Disability Concerns, Division on Deaf and Hard of Hearing**

201 N. Washington Square, Suite 150  
Lansing, MI 48913  
(517) 335-6004 T/V  
(877) 499-6232 T/V  
(517) 335-7773 Fax

#### **Michigan Registry of Interpreters for the Deaf**

Web: <http://www.mirid.org>

#### **Registry of Interpreters for the Deaf, Inc.**

333 Commerce Street Alexandria, VA 22314  
(703) 838-0030 Phone  
Web: <http://rid.org/>

#### **The National Center for State Courts**

ADA Resource Center for State Courts  
300 Newport Avenue  
Williamsburg, VA 23185  
(757) 259-7590 Fax: (757) 564-2075  
Web: <http://www.ncsconline.org>

**U.S. Department of Justice**

950 Pennsylvania Avenue, NW  
Civil Rights Division  
Disability Rights Section - NYAV  
Washington, D.C. 20530  
(800) 514-0301 Phone  
(202) 307-1198 Fax  
Web: <http://www.usdoj.gov/crt/ada/>

**American Bar Association**

Commission on Mental and Physical Disability Law  
740 15th Street, N.W.  
Washington, DC 20005-1019  
(202) 662-1000 Phone  
E-mail: [www.cmpdl@abanet.org](mailto:www.cmpdl@abanet.org)

## **Appendix F - Law Supplement**

### Federal Statutes Affecting People with Disabilities

1. ADA and ADA Amendments Act

<http://www.ada.gov/pubs/adastatute08.pdf>

2. A Guide to Disability Rights Laws

<http://www.ada.gov/cguide.pdf>

### Michigan Statutes Affecting People with Disabilities

1. 1982 PA 204 of: Deaf Persons' Interpreters Act

[http://www.michigan.gov/documents/dleg/PA\\_204\\_Amended\\_2007\\_242542\\_7.pdf](http://www.michigan.gov/documents/dleg/PA_204_Amended_2007_242542_7.pdf)

2. 1937 PA 72 of: Division on Deafness Act

[http://www.legislature.mi.gov/\(S\(u1zzfsferzdf12ft2ws2j55\)\)/documents/mcl/pdf/mcl-Act-72-of-1937.pdf](http://www.legislature.mi.gov/(S(u1zzfsferzdf12ft2ws2j55))/documents/mcl/pdf/mcl-Act-72-of-1937.pdf)

3. 1976 PA 220 of: Persons with Disabilities Civil Right Act

[http://www.michigan.gov/documents/act-220-of-1976\\_8771\\_7.pdf](http://www.michigan.gov/documents/act-220-of-1976_8771_7.pdf)

4. MCL 750.502c Person with disabilities or trainer led by guide, leader, hearing, or service dog; refusing entry to or use of public or private accommodations as misdemeanor; conditions; identification card; list; definitions.

[http://www.legislature.mi.gov/\(S\(jasmifznb4pdaa55rwhwxkyv\)\)/documents/mcl/pdf/mcl-750-502c.pdf](http://www.legislature.mi.gov/(S(jasmifznb4pdaa55rwhwxkyv))/documents/mcl/pdf/mcl-750-502c.pdf)