

STATE BAR OF TEXAS COURTROOM ACCESSIBILITY GUIDE

1. What are the obligations of courts regarding access (vs. personal services)?

- Understand the obligations to accommodate people in the courtroom as dictated by federal and state law.
- Comply with federal law (ADA) and state law.
- Ensure people using the courts are able to partake in the proceedings to the fullest extent necessary to assist in the administration of justice.
- Understand that **accessibility applies to both the buildings / facilities and the proceedings (both criminal and civil cases.)**

2. What ISN'T an obligation for courts?

- Transportation to and from the court building
- Providing attorney services or legal research and advice
- Providing personal equipment or services such as hearing aids and attendant care

Accessibility (ADA)

The Texas Court System is dedicated to ensuring that all qualified individuals with disabilities have equal and full access to the judicial system. We are committed to providing services, programs, and activities in a way that assures accessibility.

As defined by the ADA, a person with a disability is one who has a physical or mental impairment that substantially limits a major life activity, such as - but not limited to - walking, seeing, speaking, hearing, eating, learning, breathing, caring for oneself, or working. (Major life activities also included major bodily functions such as neurological, brain respiratory, circulatory, etc.)

The ADA also protects people who have a record of having such an impairment or who are regarded as having such an impairment, whether or not they actually have one, if being perceived as having one results in discrimination. Also, it is important to know that the impairment limiting one major life function does not need to limit other life activities under the ADA.

Right to an Accommodation

If you are an individual with a disability who needs an accommodation to participate in a court proceeding or other court service, program or activity, you are entitled, at no cost to you, to the provision of certain assistance.

Any individual with an interest in participating in or attending any proceeding before any court of this state may make a request for accommodations. This may include jurors, parties, attorneys, witnesses, and spectators.

Types of Accommodations the Court Can Make

Accommodations the court can provide may include making reasonable modifications in practices and procedures, or furnishing auxiliary aids, services, equipment, devices, or materials such as assistive listening devices, qualified American Sign Language (ASL) or other types of interpreters, real-time computer-aided transcription services (CART), qualified readers, in large print, Braille, electronic, or audio format.

Aids and Services that Cannot be Provided as ADA Accommodations

Some examples of aids and services the court system cannot provide as an ADA accommodation include such things as legal counsel or legal advice, transportation to or from the courthouse, an official transcript of a court proceeding, personal devices (such as wheelchairs, hearing aids, or prescription glasses), medication, or personal services (such as medical or attendant care).

The Court administrators cannot grant, as an ADA accommodation, requests that impact a judge's handling of pending court proceedings, such as requests for extension of time, a change of venue, or participation in court proceedings by telephone or video conferencing. Those types of accommodation requests must be decided by the judge or judicial officer presiding over the specific case.

3. What disabilities can impede access? (visual, auditory, mobility, language,

As defined by the ADA, a person with a disability is one who has a physical or mental impairment that substantially limits a major life activity such as - but not limited to - walking, seeing, hearing, learning, breathing, caring for oneself, or working.

Examples of disabilities include mobility and motor impairments, psychological and mental illness, vision impairments, deafness and hearing loss, and environmental sensitivities. Temporary disabilities may also qualify.

Current as of 11/01/2019

Communication

Williams, Jo. **Communication Accessibility in the Courts.** (June 2002). Court Consulting Services Division.

<https://cdm16501.contentdm.oclc.org/digital/collection/accessfair/id/115> provides:

ADA Guide for Small Towns: A Guide for Small Local Governments including Towns, Townships, and Rural Counties. (2000) Washington DC: US Department of Justice, Civil Rights division, disability rights section “This guide presents an informal overview of some basic ADA requirements and provides cost-effective tips on how small towns can comply with the ADA” – intro. The guide discusses program accessibility, existing construction, and new construction and provides numerous examples.

What is necessary for effective communication depends on the environment and context of the communication, as well as the severity of the individual's impairment. The greatest difficulty occurs in unfamiliar or stressful situations, with unfamiliar terminology or complex information, and in group settings with multiple talkers (elements of most court proceedings).

Low-tech and high-tech strategies can improve communications accessibility. Impressive courtroom designed with high ceilings, polish marble, and beautiful hardwood features or a communication nightmare for people with hearing impairments. A first step is to modify the setting and physical environment by installing sound buffers. Overcoming problems of speaker/listener distance, reverberation, and background noise also can be addressed by using assistive listening devices (ALDs) and systems (ALSs). Information can be provided visually in real-time or through prepared materials and a number of ways, including computer-assisted notetaking, transcription, or captioning projected to a personal monitor or a large screen; videotape with captioning and / or signing interpreter services; and written transcripts.

General information on ADA compliance with legalities concerning individuals with communication disabilities.

Accessible Information Exchange: Meeting on a Level Playing Field. (April 2009). U.S. Department of Justice, Disability Rights Section. Three components are key to presenting meetings that are accessible to people with disabilities:

Current as of 11/01/2019

where the meeting is held, how the meeting room furniture is arranged, and how the meeting information is communicated. This guide provides suggestions on promoting greater collaboration to customers and others with disabilities.

Examples and Resources to Support Criminal Justice Entities in Compliance With Title II of the Americans with Disabilities Act:

<https://www.ada.gov/cjta.html>

In providing reasonable accommodation, the courts are to give primary consideration to the accommodation requested by the person with the disability. However, it is the local administrative authority who decides what accommodation will be made. An alternative accommodation may be offered if equally effective.

Every effort shall be made to meet the specific needs of the individual. The court is not required to make modifications that would fundamentally alter the service or program or cause an undue financial or administrative burden.

4. Addressing types of accessibility (note whether varies by role: juror, spectator, litigant, attorney, judge):

Accommodations may include:

- making reasonable modifications to policies, practices, and procedures (such as alternative time schedules, telephone conferences)
- alteration of existing facilities or constructing new facilities (wheelchair accessibility)
- relocation of a service or program to an accessible site
- providing auxiliary aids and services (assistive listening devices, real-time captioning, qualified interpreters, readers, large print and Braille)

Required accommodations do not include:

- attorney services or legal research and advice
- personal equipment or services such as hearing aids and attendant care

a. Documents (electronic access)

An individual with ADA disabilities must be provided documents in a manner that allows communication and understanding, and the accommodations noted above apply equally regardless of role in the court (spectators may have a different requirement).

The accommodation must be for a court service, program, or activity, including going to court to:

- Testify,
- Appear in a case, or
- Serve on jury duty.

What kinds of accommodations does the court provide?

There are many different kinds of accommodations. However, the court must give a “reasonable” accommodation under the circumstances. The kind of accommodation depends on the needs of the person with the disability.

The court may...

Make changes to procedures

- Reassign a hearing to an accessible site,
- or
- Adjust schedules (as long as legal deadlines are not missed).

Provide assistive devices

- Assistive listening devices,
- or
- Computer-assisted real-time transcription (CART).

Assign assistive services

- Reader for someone with vision loss,
or
- Sign language interpreter for someone with hearing loss.

Applies to:

- Juror
- Litigant
- Attorney
- Judge

But not to:

- Spectators

b. Physical plant: building, parking (federal court in CA has good material), signage

Building

Information from the Governor's website:

I. Texas Law

- Requires submission and approval of building plans and site inspections of:
 - **Government-funded buildings** constructed or renovated after January 1, 1970;
 - **State-leased buildings** after January 1, 1972;
 - Privately-funded **public accommodations** built or renovated after January 1, 1992 (includes buildings such as hotels/motels, restaurants, theaters, auditoriums, shopping centers, sales/rental establishments, transportation terminals, museums, parks, schools, day-care centers, and gyms); and
 - Privately-funded **commercial buildings** built or renovated after September 1, 1993.
 - Texas Law does not apply to buildings owned, leased, or operated by the **federal government**. Such buildings are subject to the federal Architectural Barriers Act of 1968, which requires federal buildings to be accessible.
 - Requires architects, interior designers, landscape architects, or engineers to **submit plans** for new construction or substantial renovation totaling \$50,000 or more to the Texas Department of

Current as of 11/01/2019

Licensing and Regulation (TDLR) not later than the fifth day after the professional issues the plans.

- Requires **building owners** who are not using such professionals for construction or substantial alteration to submit plans within 30 days of the date when the construction or modification begins.
- Provides that a local governmental entity cannot issue a building **construction permit** without proof that the building owner has filed a plan with TDLR.
- Provides customers with specific medical conditions may use employee-only restrooms in a retail establishment lacking public restrooms under certain conditions.

Parking

Information from the Governor's office

[https://gov.texas.gov/uploads/files/organization/disabilities/Accessible Parking for Texans with Disabilities 2011 Rev. March12 .pdf](https://gov.texas.gov/uploads/files/organization/disabilities/Accessible_Parking_for_Texans_with_Disabilities_2011_Rev._March12_.pdf)

The Texas Accessibility Standards require that:

- ∞ A minimum number of accessible parking spaces must be provided, consistent with the chart below. At least one out of every eight accessible spaces, but no less than one, must be made van-accessible.
- ∞ Accessible parking spaces must be located on the shortest accessible route of travel to an accessible entrance. If there are multiple accessible entrances, the accessible parking spaces shall be dispersed and located closest to the accessible entrances.
- ∞ Parallel parking is discouraged unless it can be situated so that persons entering and exiting vehicles will be out of the flow of traffic.
- ∞ Accessible parking spaces must be at least 96 inches (2440 millimeters) wide.
- ∞ Each accessible parking space must have either an access aisle at least 60 inches (1525 millimeters) wide or a van-accessible aisle at least 96 inches (2440 millimeters) wide.
- ∞ Parking spaces and access aisles must be level, with a maximum allowable slope of 2% in all directions. 8 Contact: Texas Governor's Committee on People with Disabilities at 512-463-5739. <http://www.gov.texas.gov/disabilities>. Doc Revised 2011.
- ∞ Each accessible parking space shall be designated as a reserved space with a sign showing the symbol of accessibility. Designated van-accessible parking spaces must have an additional "Van-Accessible" sign mounted below the symbol of accessibility.
- ∞ Signs shall be located 60 inches (1525 millimeters) above the ground.

Current as of 11/01/2019

- ∞ Covered parking must provide a minimum vertical clearance of 114 inches (2895 millimeters) at entrances, exits, passenger loading zones, and along at least one vehicle access route.
- ∞ Covered parking must provide a minimum vertical clearance of 98 inches (2490 millimeters) at all van-accessible spaces.
- ∞ Passenger loading zones shall provide an access aisle at least 60 inches (1525 millimeters) wide and 240 inches (6100 millimeters) long parallel to the vehicle pull-up space.
- ∞ Two parking spaces may share the same access aisle.

Communication

Information from a handout of Disability Rights Texas

https://www.disabilityrightstx.org/files/HEAT_tm_Tx_JoP_2_pgr_FINAL.pdf

All Texas civil and criminal courts are required to appoint a certified or licensed interpreter for civil or criminal court proceedings.¹ The court is also required to appoint an interpreter for witnesses, jurors, and counsel. The court is responsible for scheduling, arranging, and paying for the interpreter. The individual who is deaf or hard of hearing is not responsible for making these arrangements and may not be charged for the cost of a qualified interpreter. The interpreter's fee and expenses are paid from the general fund of the county in which the case was brought.²

How do you get help with more specific challenges? (Designated ADA Coordinator [link to Gov. Comm. Spreadsheet], SW ADA Center, Gov's Committee, OCA, DIC)