



# MAINE JUDICIAL BRANCH

## BENCH CARD AND BEST PRACTICES FOR WORKING WITH PEOPLE WITH DISABILITIES INCLUDING THE DEAF AND HARD OF HEARING



**IT IS THE POLICY of the Maine Judicial Branch** that all court proceedings, services, programs, activities, and facilities will be fully accessible to individuals with disabilities, as required by fairness and justice, the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973, and the Maine Human Rights Act (MHRA). The Maine Judicial Branch makes every reasonable effort to provide accommodations and auxiliary aids and services to people with disabilities at no cost to them so that they may access the court and its services.

### Sources of Authority:

- ◆ 42 U.S.C. § 12131-12134, “Title II” of the ADA, as amended by the ADA Amendments Act of 2008;
- ◆ Pub. L. 93-112, Title V, § 504, as amended, codified at 29 U.S.C. § 794 and known as “Section 504 of the Rehabilitation Act of 1973”;
- ◆ 28 CFR §§ 35.101-35.190 (implementing “Title II” of the ADA which prohibits discrimination on the basis of disability by public entities); and
- ◆ 5 M.R.S. §§ 4591-4594-G, addressing public accommodations under the MHRA.

### ADA Title II Regulations include:

- § 35.102 Application – Title II “applies to all services, programs, and activities provided or made available by public entities,” including state courts.
- § 35.104 Definitions – “Auxiliary Aids and Services”
- § 35.160 General (Communications) –
  - (a)(1) “**A public entity shall take appropriate steps to ensure that communications with [people] with disabilities are as effective as communications with others.**”
  - (b)(1) “**A public entity shall furnish appropriate auxiliary aids and services** where necessary to afford qualified individuals with disabilities... an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity.”
  - (b)(2) “In determining what types of auxiliary aids and services are necessary, a public entity shall **give primary consideration to the requests of individuals with disabilities.**”
- § 35.164 Duties –
  - The ADA “does not require a public entity to take any action that it can demonstrate would result in a **fundamental alteration** in the nature of a service, program, or activity or in undue financial and administrative burdens.”
  - “The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee”
    - **i.e.** Judicial Officers, the Court Access Coordinator, or the State Court Administrator
  - “and must be accompanied by a written statement of the reasons for reaching that conclusion.”

### Qualified Individuals with Disabilities:

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.

### Reasonable Accommodations include:

- ✓ assistive listening devices
- ✓ CART services
- ✓ TTY: Maine Relay 711
- ✓ qualified sign language, oral and cued-speech interpreters
- ✓ relocating a proceeding to an accessible courtroom
- ✓ qualified readers
- ✓ accessible formats such as large print or Braille, electronic document on diskette, or audio format

### The Judicial Branch may also make reasonable modifications to court procedures, in coordination with the presiding Judicial Officer:

- ✓ consenting to alternative time schedules
- ✓ allowing remote appearances in court proceedings by telephone or telephone conferences
- ✓ removing distractions from the courtroom
- ✓ allowing the party to remain seated or to have more frequent rest breaks during a court proceeding
- ✓ allowing a “support person” to attend the proceeding See 28 CFR §35.160 (c)(2)(ii)
- ✓ allowing an “emotional support,” “therapy,” “comfort” or “companion” animal to attend the proceeding

### Required accommodations do not include:

- ✗ attorney services, legal research, legal advice, or legal interpretation
- ✗ personal attendant care or personal equipment such as wheelchairs, hearing aids, or eyeglasses
- ✗ personal services such as transportation or lodging
- ✗ readers for personal use or study
- ✗ requests that impair the neutrality or functioning of the court, such as continuing matters indefinitely

### **PLEASE DIRECT CHALLENGING OR URGENT REQUESTS TO:**

**The Court Access Coordinator**  
**Allison Gray, Esq.**  
**207-822-0718**  
**[accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov)**



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**DEAF AND HARD OF HEARING INDIVIDUALS**

All parties, witnesses, and parents of juveniles are entitled to legally qualified American Sign Language (ASL), oral, or cued-speech interpreters at no cost.

All court observers are entitled to interpreters, and must be provided an interpreter at no cost to them, although for court observers the Judicial Branch is not required to provide a legally qualified interpreter.

Interpreter requests for the Deaf and Hard of Hearing may be handled by the clerks or the Communication Access Specialist, [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).

**Disability Accommodation Request Process:**

Requests for accommodations must include:

- a description of the accommodation sought,
- a statement of the impairment, and
- an explanation why such accommodation is needed.

Preferably requests are submitted in writing on a [Disability Accommodation Request Form](#) to [accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov); requests may also be made by calling the Court Access Coordinator, asking a clerk, or on motion to the presiding judicial officer.

**Supplemental Medical Information:**

The ADA permits the Court to request additional medical information as needed to evaluate the request; however, this is not required and often not necessary.

**Requests for Modification to Court Procedures:**

Any disability accommodation request received by the Court Access Coordinator that implicates court procedures or courtroom management will be discussed with the presiding judicial officer in advance for the presiding judicial officer to decide its reasonableness.

**Denials of Disability Accommodation Requests:**

- ✗ Cannot be made by clerks, marshals, or other staff who may be approached with a request
- Can only be made by Judicial Officers, the Court Access Coordinator or the State Court Administrator See 28 CFR § 35.164
- Must be accompanied by a written decision and a copy of the Grievance Procedure for Disability Accommodations

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**Mobility Devices:**

People may use manual or power wheelchairs or scooters, and manually powered mobility aids, in all areas where members of the public are allowed to go. The Judicial Branch will accommodate Other Power-Driven Mobility Devices (OPDMD), such as the Segway, if the speed is limited to the pace of pedestrian traffic and it is not otherwise unsafe to operate the OPDMD.

**Service Animals:**

Service animals are **DOGS** that have been individually trained to do work or perform tasks for people with disabilities and are permitted in court facilities, even where pets are generally prohibited.

(Miniature horses are a possible exception on a case-by-case basis. See 28 CFR § 35.136)

<b>Court personnel can ask 2, and only 2, questions:</b>
<b>(1) Is the dog a service animal required because of a disability?</b>
If "No" → ✗ No pets allowed in court facilities
If "Yes" → Court personnel may then ask:
<b>(2) What work or task has the dog been trained to perform?</b>
The dog must be trained to take a specific action, when needed, to assist the person with a disability
<b>Service Animals are not required to wear a vest, ID tag or special harness, or be specially certified.</b>

**The Court Cannot:**

- ✗ request documentation of training for the dog
- ✗ require that the dog demonstrate its task
- ✗ inquire about the nature of the person's disability (unless they are requesting other accommodations and more information is required to make the accommodation decision)

**The Court may exclude or eject Service Animals:**

- if the dog is out of control and the handler does not take effective action to control it, or
- if the dog is not housebroken

<b>Emotional support, therapy, comfort, or companion dogs and animals are not considered service animals under the ADA because they have not been specially trained to perform a task.</b>
<b>But comfort animals may be accommodated at the discretion of the presiding Judicial Officer as a reasonable modification to court procedures.</b>

