

AMERICANS WITH DISABILITIES ACT AND THE COLORADO STATE COURTS

The Americans with Disabilities Act of 1990 ("ADA") was enacted to prohibit discrimination against people with disabilities. Under Title II of the Act, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs or activities of a public entity. This prohibition applies to the state courts as providers of public programs and services. People with disabilities are to be given an equal opportunity to access, use and fully participate in court services and programs, and not be discriminated against because of their disability.

A person with a "disability" is someone who has a physical, mental or communication disability 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 and working. 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 reasonable accommodation made. Some examples include mobility or other motor disabilities, vision disabilities, speech and hearing impairments, environmental sensitivities, learning disabilities and psychological disorders.

Whenever reasonable, policies, practices or procedures must be modified to make court services and programs readily accessible to and useable by, people with disabilities. This includes removing architectural barriers by altering existing facilities where feasible or relocating services to an accessible site. It also includes removing communication barriers by providing auxiliary aids and services which would allow a person with a disability to effectively work in the courts, represent a client, be a party in a lawsuit, testify as a witness, serve on a jury, or observe a hearing or trial.

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 undue financial or administrative burden.

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