

IN THE COURTS OF THE
FIRST JUDICIAL CIRCUIT, STATE OF FLORIDA

ADMINISTRATIVE ORDER NO. 2010-33
(Vacates and rescinds Administrative Order No. 2008-29)

IN RE: ADA
 AMERICANS WITH DISABILITIES ACT OF 1990

WHEREAS, the Americans with Disabilities Act of 1990 (ADA) requires that reasonable accommodations be provided to requesting qualified persons with disabilities in order that they might participate fully in court programs, services, activities and benefits; and

WHEREAS, it is the intent of the First Judicial Circuit to facilitate provisions for reasonable accommodations when requested by qualified persons with disabilities, and

WHEREAS, Rule of Judicial Administration, 2.540, “Notices to Persons with Disabilities” as amended, “Requests for Accommodations by Persons with Disabilities”, sets forth with specificity actionable direction in order to better guide the Florida courts and members of the public as to their rights and obligations under the Americans with Disabilities Act of 1990 (ADA) while also intended to promote uniformity in the provision of accommodations to individuals with disabilities.

WHEREAS, Title II of the Americans With Disabilities ACT of 1990 (ADA) requires that a grievance procedure be implemented for each public entity; and

WHEREAS, the Americans With Disabilities Act of 1990 (ADA) requires that a person be designated to oversee Title II to assure compliance, it is hereby

ORDERED AND ADJUDGED that:

1. Pursuant to Rule 2.540(a), Duties of Court, Qualified individuals with a disability will be provided, at the court's expense, with accommodations, reasonable modifications to rules, policies or practices, or the provision of auxiliary aids and services, in order to participate in programs or activities provided by the courts of this state. The court may deny a request only in accordance with subdivision (e). Pursuant to Rule 2.540(b) Definitions, The definitions encompassed in the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., are incorporated.

2. Notice Requirement pursuant to Rule 2.540(c): All notices of court proceedings to be held in a public facility, and all process compelling appearance at such proceedings, shall include the following statement in bold face, 14-point Times New Roman or Courier font:

“If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact:

**Shelia Sims,
190 Governmental Center, 5th Floor
Pensacola, FL 32502
(850) 595-4400**

at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.”

3. The procedures for obtaining an accommodation as well as the grievance procedure adopted by the First Judicial Circuit are posted on the court's website at: www.firstjudicialcircuit.org as well as available through each Office of Court Administration, Court Program or Judicial Office of the First Circuit. Those procedures 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 Florida State Courts System. If such grievance involves a matter that may affect the orderly administration of justice it is within the discretion of the presiding judge to stay the proceeding and seek expedited resolution of the grievance.

4. Requests for accommodations under this rule may be presented on the form provided on the website at: www.firstjudicialcircuit.org, in another written format or orally.

a. Requests for accommodations must include a description of the accommodation sought, along with a statement of the impairment that necessitates the accommodation and the duration that the accommodation is to be provided. The court, in its discretion, may require the individual with a disability to provide additional information about the impairment. Requests for accommodation shall not include any information regarding the merits of the case.

b. Requests must be forwarded to the ADA Coordinator, or designee, within the 7 day time frame. The court may, in its discretion, waive the 7 day time frame requirement.

5. Response to Accommodation Request. The court shall respond to a request for accommodation as follows:

a. The court shall consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990 in determining whether to provide an accommodation or an appropriate alternative accommodation.

b. The court shall inform the individual with a disability of the following:

(1) That the request for accommodation is granted or denied, in whole or in part, and if the request for accommodation is denied, the reason therefor; or that an alternative accommodation is granted;

(2) The nature of the accommodation to be provided, if any; and

(3) The duration of the accommodation to be provided

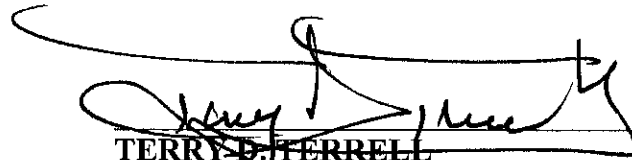
If the request for accommodation is granted in its entirety, the court shall respond to the individual with a disability by any appropriate method. If the request is denied or granted only in part, or if an alternative accommodation is granted, the court must respond to the individual with a disability in writing, as may be appropriate, and if applicable, in an alternative format.

(4) If the court determines that a person is a qualified person with a disability and an accommodation is needed, a request for accommodation may be denied only when the court determines that the requested accommodation would create an undue financial or administrative burden on the court or would fundamentally alter the nature of the service, program or activity.

6. That the attached Designation of Responsible Person and Internal Grievance Procedure with Statement of Grievance form is the official accounting of the internal grievance procedures for the First Judicial Circuit and that Shelia Sims, Chief Deputy

Court Administrator is designated as the ADA Coordinator for the First Judicial Circuit until further order of this court.

DONE AND ORDERED at Pensacola, Escambia County, Florida, on this 16th day of July, 2010.



TERRY D. FERRELL
Chief Judge

Copies to:
All Judges, First Judicial Circuit
All Clerks of Court, First Judicial Circuit
William Eddins, State Attorney
James Owens, Public Defender
Robin Wright, Trial Court Administrator
All Court Program Managers, First Judicial Circuit
All Law Enforcement Agencies, First Judicial Circuit
State and County Probation, First Judicial Circuit
Escambia-Santa Rosa Bar Association (for distribution)
Okaloosa-Walton Bar Association (for distribution)

**FLORIDA STATE COURTS SYSTEM
FIRST JUDICIAL CIRCUIT
ADA TITLE II ACCOMMODATION REQUEST FORM¹**

June 30, 2010

RIGHT TO AN ACCOMMODATION

If you are an individual with a disability who needs an accommodation in order 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. Requests for accommodations may be presented on this form, in another written format, or orally. Please complete the attached form and return it to:

Shelia A. Sims, Chief Deputy Court Administrator
190 Governmental Center, 5th Floor
Pensacola, FL 32502
(850) 595-4400 phone (850) 595-0360 fax
shelia.sims@flcourts1.gov

as far in advance as possible, but preferably at least seven (7) days before your scheduled court appearance or other court activity.

Upon request by a qualified individual with a disability, this document will be made available in an alternate format. If you need assistance in completing this form due to your disability, or to request this document in an alternate format, please contact

Shelia A. Sims, Chief Deputy Court Administrator
190 Governmental Center, 5th Floor
Pensacola, FL 32502
(850) 595-4400 phone (850) 595-0360 fax
shelia.sims@flcourts1.gov

¹ This form was developed for use by individuals with disabilities who may require a modification in a policy, provision of an auxiliary aid or service, or assignment to an accessible location in order to participate in a court proceeding or other court service, program, or activity that is covered by Title II of the Americans with Disabilities Act. Court employees with disabilities who need a reasonable accommodation to be able to perform the essential functions of their jobs should contact their immediate supervisor, the ADA coordinator for their court, the OSCA Office of Personnel Services, or the State Courts ADA Coordinator.

Shelia A. Sims, Chief Deputy Court Administrator
190 Governmental Center, 5th Floor
Pensacola, FL 32502
(850) 595-4400 phone (850) 595-0360 fax
shelia.sims@flcourts1.gov

ADA ACCOMMODATIONS PROVIDED BY FLORIDA COURTS

Pursuant to Title II of the Americans with Disabilities Act the Florida State Courts System will make reasonable modifications in policies, practices, and procedures; furnish auxiliary aids and services; and afford program accessibility through the provision of accessible facilities, the relocation of services or programs, or the provision of services at alternative sites, as appropriate and necessary.

Examples of auxiliary aids or services that the State Courts System may provide for qualified individuals with disabilities include:

- Assistive listening devices
- Qualified ASL or other types of interpreters for persons with hearing loss
- Communication access real-time translation / Real-time transcription services
- Accessible formats such as large print, Braille, electronic document, or audio tapes
- Qualified readers

Accommodations that are granted by the state courts are made at no cost to qualified individuals with disabilities.²

² Please note that providing accommodations for some individuals with disabilities who appear in the courtroom as part of their employment duties or professional practice is a responsibility that appropriately may be shared by the individual's employer and the courts. Title I of the Americans with Disabilities Act requires employers of 15 or more employees and Title II of the Americans with Disabilities Act requires all state and local government employers to provide reasonable accommodations to qualified employees with disabilities. In addition, Section 504 of the Rehabilitation Act of 1973, as amended, covers recipients of federal funding, and requires all covered organizations to provide accommodations for their employees. These responsibilities are concomitant with the courts' responsibility under Title II of the ADA. It is to everyone's benefit when employers and the court system work together to ensure that reasonable accommodations for individuals with disabilities are provided in the most efficient and cost effective manner.

AIDS/SERVICES COURTS CANNOT ADMINISTRATIVELY GRANT AS ADA ACCOMMODATIONS

Examples of aids or services the Florida State Courts System cannot provide as an accommodation under Title II of the Americans with Disabilities Act include:

- Transportation to and from the courthouse
- Legal counsel or advice
- An official transcript of a court proceeding
- Personal devices such as wheelchairs, hearing aids, or prescription eyeglasses
- Personal services such as medical or attendant care
- Readers for personal use or study

Additionally, the courts cannot administratively grant, as an ADA accommodation, requests that impact court procedures within a specific case. Requests for an extension of time, a change of venue, or participation in court proceedings by telephone or videoconferencing must be submitted by written motion to the presiding judge as part of the case. The judge may consider an individual's disability, along with other relevant factors, in granting or denying the motion.

Furthermore, the court cannot exceed the law in granting a request for an accommodation. For example, the court cannot extend the statute of limitations for filing an action because someone claims that he or she could not make it to the court on time due to a disability, nor can the court modify the terms of agreements among parties as an ADA accommodation.

Finally, the Americans with Disabilities Act (ADA) does not require the court system to take any action that would fundamentally alter the nature of court programs, services, or activities, or that would impose an undue financial or administrative burden on the courts.

DOCUMENTATION OF THE NEED FOR AUXILIARY AIDS AND SERVICES

If an individual has a disability that is not obvious, or when it is not readily apparent how a requested accommodation relates to an individual's impairment, it may be necessary for the court to require the individual to provide documentation from a qualified health care provider in order for the court to fully and fairly evaluate the accommodation request. These information requests will be limited to documentation that (a) establishes the existence of a disability; (b) identifies the individual's functional limitations; and (c) describes how the requested accommodation addresses those limitations. Any cost to obtain such documentation is the obligation of the person requesting the accommodation.

FLORIDA STATE COURTS SYSTEM TITLE II ADA ACCOMMODATION REQUEST FORM

Please return this completed form to

Shelia A. Sims, Chief Deputy Court Administrator
190 Governmental Center, 5th Floor
Pensacola, FL 32502
(850) 595-4400 phone (850) 595-0360 fax
shelia.sims@flcourts1.gov

as far in advance as possible, but preferably at least seven (7) days before your scheduled court appearance or other court activity.

1. Date request submitted: ____/____/____

2. Person needing accommodation

Name: _____

Are you (please check one of the following seven options):

Defendant Litigant/Party Witness Juror Victim Attorney

Other (please specify): _____

3. Contact information for person needing accommodation

Street or P.O. Box: _____

City: _____

State: _____ Zip Code: _____

Telephone Number (include area code): _____

Email Address: _____

4. Person making request (if other than the person needing the accommodation)

Name: _____

Telephone Number (include area code): _____

Email Address: _____

Relationship to person needing an accommodation: _____

5. Case information (if applicable)

Style of case (case title), if known: _____

Case number, if known: _____

Judge, if known: _____

Date accommodation needed: _____

Time accommodation needed: _____

Location (courthouse/courtroom) accommodation needed: _____

Duration for which the accommodation is requested: _____

Type of case, if known (please check one of the following ten options):

appeal circuit criminal circuit civil family court

probate, guardianship, or mental health county criminal county civil

traffic court small claim other (please specify) _____

Type of proceeding, if known (please check one of the following six options):

arraignment bond hearing hearing trial appellate oral argument

other (please specify) _____

6. Accommodations requested

Nature of disability that necessitates accommodation: _____

Accommodation requested (please check one of the following six options):

Assistive listening device (*Assistive listening systems work by increasing the loudness of sounds, minimizing background noise, reducing the effect of distance, and overriding poor acoustics. The listener uses a receiver with headphones or a neckloop to hear the speaker.*)

Communication access real-time translation/real-time transcription services (*CART is a word-for-word speech-to-text interpreting service for people who need communication access. A rendering of everything said in the courtroom will appear on a computer screen. CART is not an official transcript of a court proceeding.*)

Sign Language Interpreter (*Please specify American Sign Language, oral interpreter, signed English, or other type of signing system used by persons with hearing loss.*): _____

Assignment to a courtroom that is accessible to a person using a mobility device (*Please specify wheelchair, scooter, walker, or other mobility device that is used.*): _____

Provision of court documents in an alternative format (*Please specify Braille, large print, accessible electronic document, or other accessible format used by persons who are blind or have low vision.*): _____

Other accommodation (please specify): _____

7. Use the Submit Button (immediately following) to send us your request:
[] Submit Request

THE FOLLOWING SECTION IS TO BE COMPLETED BY COURT PERSONNEL ONLY

8. Date request was received: ____/____/____
9. Additional oral or written information requested? [] Yes [] No
If so, describe information: _____

10. Describe the accommodation(s) granted by the court: _____

11. Indicate the duration the accommodation will be provided: _____

12. If an accommodation is denied, indicate reason(s) for denial:³
- [] Based on the information provided, it appears the person does not have a disability as defined by the ADA
 - [] Requested accommodation does not directly correlate to functional limitations
 - [] Request relates to a service, program, or activity outside the court system (transportation, legal representation, mental health counseling, parenting course, etc.)
 - [] Request is for an aid/service the courts cannot administratively grant as an accommodation pursuant to Title II of the ADA (official transcript, extension of time, etc.)
 - [] Requested accommodation would result in an undue burden
 - [] Requested accommodation would result in a fundamental alteration
 - [] Other (please specify): _____
13. Remarks: _____

³ If the request is denied, granted only in part, or if an alternative accommodation is granted, Rule of Judicial Administration 2.540 requires the court to respond in writing to the individual with a disability. Transmittal of a copy of this section of the accommodation request form by email or by U.S. Mail delivery is one means of providing the written response required by rule 2.540. If an accommodation is denied due to a finding of undue burden or fundamental alteration, the Americans with Disabilities Act requires that such determination be made in writing by the chief judge or chief judge's designee.

14. Court staff responding to request: _____

15. Date person notified of determination: ____/____/____

GRIEVANCE PROCEDURE:

AMERICANS WITH DISABILITIES ACT OF 1990

* * *

DESIGNATION OF RESPONSIBLE PERSON AND INTERNAL GRIEVANCE
PROCEDURE FOR THE FIRST JUDICIAL CIRCUIT

I. AUTHORITY

Federal regulations implementing the Americans With Disabilities Act of 1990 (ADA) requires public entities with 50 or more employees to designate a responsible employee and adopt a grievance procedure providing for prompt and equitable resolution of complaints alleging noncompliance or complaints alleging any actions that would be prohibited under Title II of the ADA (28 C.F.R. § 35.107)

II. INTENT AND PURPOSE

It is the intent of the First Judicial Circuit to fully comply with the ADA and to assure equity fairness, and full participation in the judicial system for persons with disabilities.

The purpose of this procedure is to establish a mechanism for resolving complaints without requiring the complainant to resort to federal complaint procedures. However, complainants would not be required to exhaust this grievance procedure before they could file a complaint at the federal level.

It is the intent of the First Judicial Circuit that complainants be consulted and advised, and that communications be maintained, at each step of the grievance process. It is further the intent of the First Judicial Circuit to engage, alternative dispute resolution techniques whenever necessary, and at any point in the grievance process.

III. DEFINITIONS

A. *Americans With Disabilities (ADA):*

Public Law 101-336, the Americans With Disabilities Act of 1990, which prohibits discrimination on the basis of disability.

B. *ADA Coordinator: Same as "Responsible Employee."*

C. *Disability or Persons with Disabilities:*

With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment as defined in Public Law 101-336 and 28 C.F.R. §35.104.

D. *Grievance:*

A formal complaint made by a person, or on behalf of a person, alleging that he or she has been subjected to unlawful discrimination, or inaccessibility to facilities, programs, services, benefits, or activities on the bases of a disability.

E. *Legal Affairs:*

Formally called Legal Affairs and Education, an operational division of the Office of the State Courts Administrator, Supreme Court of Florida, Tallahassee.

F. *Office of the State Courts Administrator (OSCA):*

The administrative office of the Supreme Court of Florida, Tallahassee, which serves as the liaison between the Supreme Court and other court entities and other branches of government.

G. *Responsible Employee:*

An employee designated to coordinate a public entity's efforts to comply with and carry out its responsibilities under Title II of the ADA. These responsibilities include any investigation and/or follow through of any complaint alleging noncompliance or alleging any actions that would be prohibited by Title II of the ADA.

H. *State Courts System:*

All Florida courts at both appellate and trial levels.

I. *Title II:*

The second section of the ADA that prohibits discrimination on the basis of disability in state and local government services.

IV. DESIGNATION OF RESPONSIBLE PERSON:

The ADA Coordinator for the First Judicial Circuit is:

Shelia A. Sims
Chief Deputy Court Administrator
M.C. Blanchard Judicial Building
190 Governmental Center, 5th Floor
Pensacola, Florida 32502
(850) 595-4400
(850) 595-0360 fax
e-mail: shelia.sims@flcourts1.gov

V. GRIEVANCES:

A complaint shall contain the following minimum information:

1. Name, address, and telephone number of the complainant on whose behalf the complaint is being made.
2. The court facility in which the violation is alleged to have occurred.
3. A complete statement of the grievance and the facts upon which it is based.
4. The desired remedy or solution requested.
5. The names of any witnesses who can provide supportive or relative information.

VI. PROCEDURE FOR GRIEVANCES RELATING TO THE FIRST JUDICIAL CIRCUIT

A. FILING:

1. Complaints must be filed with the ADA Coordinator no later than one hundred eighty (180 days) from the date of the alleged violation.
2. The filing deadline may be extended upon a show of good cause.

B. ASSESSMENT AND DETERMINATION OF TEAM MEMBERS:

1. The ADA Coordinator will determine which function(s) of the court is(are) at issue: facilities, programs, services, benefits or activities.
2. The ADA Coordinator will notify the Chief Judge and the Court Administrator of the complaint.
3. A team consisting of at least three (3) people, one of which must be the ADA Coordinator, shall address the complaint. Individual(s) who are charged in the complaint with alleged discriminatory conduct shall not be a member of the team.
4. The team will involve representatives from county government entities in the resolution of the complaint when the complaint involves a court facility, program, service, benefit, or activity that is under the authority or provided by county government.

C. FACT FINDING:

1. The team, or a member of the team, will review the complaint with the complainant.
2. The team, or a member of the team, will interview witnesses who can provide supportive or relative information and complete the fact finding.

D. TEST OF LEGAL SUFFICIENCY:

The team, or a member of the team, shall determine the legal sufficiency of the complaint. In making this determination the team shall consider a consultation with a member of Legal Affairs.

E. ACTION:

1. If a complaint is legally deficient, the complaint shall immediately be brought to closure.
2. If a complaint is legally sufficient, the team will establish a course of action to resolve the complaint.
3. To the extent necessary, the court will make reasonable modifications to its programs, services, benefits, and activities to ensure future compliance with the ADA.

4. When appropriate, and to the extent necessary, the court will work with county government to make reasonable modifications to court facilities, programs, services, benefits, and activities that are under the authority or provided by county government to ensure future compliance with the ADA.
5. The court may invoke the course of action described in the regulations implementing the ADA (28 C.F.R. §35.164) when modifications would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

F. CLOSURE, NOTIFICATION, and RECORDS RETENTION:

1. The ADA Coordinator shall communicate the results of the investigation and the chosen course of action to the complainant not later than thirty (30) working days from the date the complaint was filed.
2. In instances where a grievance against the First Judicial Circuit is filed via the ADA Coordinator of the State Courts System, the ADA Coordinator shall also communicate the results of the investigation and the chosen course of action to the ADA Coordinator of the State Courts System not later than thirty (30) working days from the date the complaint was filed.
3. A record of the grievance shall be maintained for three (3) years; the record shall be located with the ADA Coordinator.

See *LINK for ADA GRIEVANCE STATEMENT (pdf format)*

Internal Grievance Procedures:
Adopted in January, 1993
Modified in March, 2008