

## **FIRST JUDICIAL CIRCUIT, MASSAC COUNTY ILLINOIS COURT POLICY ON ACCESS FOR PEOPLE WITH DISABILITIES**

### **I. Introduction**

The Circuit Court of Massac County, Illinois (Court) is committed to ensuring equal access to all court facilities, hearings and proceedings, activities, services, communications, and programs (collectively referred to as court activities) for people with disabilities and to maintaining an environment in which all people, including those with disabilities, are treated with dignity, respect, and courtesy.

The Americans with Disabilities Act (ADA), a federal civil rights statute for people with disabilities, requires all state and local governmental entities, including the courts, to respond to the needs of people with disabilities to ensure equal access to court activities. See 28 C.F.R. 35.

The Illinois Human Rights Act (IHRA) provides that it is a civil rights violation for public officials to deny or refuse to another the full and equal enjoyment of the accommodations, advantage, facilities, or privileges of the official's office or services or of any property under the official's care because of unlawful discrimination. See 755 ILCS 5/5-102(C).

The Court has adopted the following policy and procedures to ensure physical access, reasonable accommodations, accessibility aids, and services to persons with disabilities who wish to access and participate in court activities.

For purposes of this policy, **disability** means a physical or mental characteristic that substantially limits one or more major life activities. As defined in the ADA and the IHRA, a person with a disability may:

- have an actual disability or
- have a record of a disability or
- be regarded as having a disability.

See 28 C.F.R. 35.108(a); see also 775 ILCS 5/1-103(I).

The definition of disability shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA and the IHRA.

### **II. Policy**

It is the policy of the Court to ensure people with disabilities have full and equal access to participate in court activities and receive accommodations consistent with the requirements of Title II of the ADA and the IHRA. This policy applies to all levels of Illinois state courts, including Circuit Courts, the Appellate Court, and the Supreme Court. Courts will provide, free of charge, physical access, reasonable accommodations, accessibility aids, and services to ensure

that people with disabilities have an equal opportunity to participate in and benefit from any court activities. This policy applies to all members of the public who seek to participate in, observe, or interact with court activities, including court users, lawyers, jurors, court observers, and their companions, support workers, care or assistance providers or coordinators, and family members.

### III. Court Disability Coordinators (CDCs), Services, and Accommodations

Illinois state courts facilitate participation in court activities through CDCs and the provision of reasonable accommodations, accessibility aids, and services by engaging stakeholders, service providers, devices, technologies, and physical design elements.

#### A. Court Disability Coordinators

A CDC is a person appointed by the court who coordinates efforts to comply with and carry out the court's responsibilities under the ADA, the IHRA, and this policy. See 28 C.F.R. 35.107(a). All courts must appoint **at least one** CDC, who will make available, through public posting, the CDC's name, office address, telephone number, and e-mail address. See 28 C.F.R. 35.107(a). The Chief Judge of each Circuit appoints the CDC(s) for the Chief Judge's circuit. The CDCs for the reviewing courts are the Clerks of the Appellate Court for their respective districts and the Clerk of the Supreme Court. Contact information for the CDCs of each Appellate Court district and the Supreme Court is attached as Exhibit A.

The CDC must:

- receive and process accommodation requests from and on behalf of persons with disabilities, judges, and other court personnel pursuant to the procedures outlined in Section V of this policy in consultation with the Chief Judge of the Circuit, Presiding Appellate Justice, or Chief Justice of the Supreme Court;
- receive and process grievance requests from persons with disabilities pursuant to Section VI of this policy;
- convey accommodation requests for persons with disabilities to the appropriate judge or court personnel;
- convey only necessary information related to accommodation requests for persons with disabilities to the appropriate judge or court personnel and take care to protect that information from distribution to other individuals;
- receive regular training from the Illinois Office of the Attorney General Disability Rights Bureau and the Access to Justice Division of the Administrative Office of Illinois Courts (AOIC); and
- where appropriate, investigate communications to the court alleging noncompliance with the ADA or IHRA, or alleging any court actions that may be prohibited by the ADA, IHRA, or this policy (Note: where the allegation of noncompliance with the ADA, IHRA, or this policy involves the conduct, action, or inaction of the CDC, the AOIC shall investigate and respond to the allegation, which will be sent to [CDCReport@illinoiscourts.gov](mailto:CDCReport@illinoiscourts.gov)).

The CDC may designate appropriate additional personnel to carry out the above duties. Any designee must receive the regular training referred to above.

Whenever a Circuit Court appoints a new CDC pursuant to Section III(A), the Chief Judge (or the Chief Judge's representative) shall report the new CDC's name, office address, telephone number, and e-mail address to the Access to Justice Division of the AOIC within 30 days of the appointment to [CDCReport@illinoiscourts.gov](mailto:CDCReport@illinoiscourts.gov).

#### B. Accommodations, Accessibility Aids, Services, Devices, and Technologies

A **reasonable accommodation** is a modification in policies, practices, or procedures when the modification is necessary to avoid discrimination on the basis of disability and is necessary to accommodate a person with a disability, unless the public entity is able to demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity or present an undue financial or administrative burden. See 28 C.F.R. 35.130(b)(7)(i). An accommodation is context-specific and should be individualized to meet the accessibility needs of the person with a disability. See 28 C.F.R. 35.160(b)(2). Courts shall administer services, programs, and activities in the most integrated setting appropriate to the need of the person with a disability. See 28 C.F.R. 35.130(b)(7)(d).

A court must take steps necessary to ensure that people with disabilities receive the benefits or services provided by the court. See 28 C.F.R. 35.150. However, a court is not required to take actions that would result in a fundamental alteration in a service, program, or activity or undue financial or administrative burdens. *Id.* Recognizing this, the court shall, free of charge, provide any reasonable accommodation necessary to ensure a person with a disability has access and can fully and equally participate in and benefit from court activities. The decision to deny an accommodation request should be accompanied by a written statement of the reasons for reaching that conclusion.

Courts have a continuing obligation to assess the accommodations, accessibility aids, and services they are providing and consult with the individual with the disability on a continuing basis to assess the efficacy of the accommodations in place and ensure equal participation in, and enjoyment of the benefits of, the court's services, programs, and activities. See 28 C.F.R. 35.160 (2010 Guidance and Section-by-Section Analysis).

Examples of accommodations, accessibility aids, services, devices, and technologies for people with disabilities may include, but are not limited to:

- court documents made available in large-print, Braille, or another accessible format for court users who have visual disabilities;
- access for service animals (dogs and miniature horses) to court facilities;
- adapted proceedings, including extended time for hearings, breaks, and changes to courtroom location (including remote or in-person appearances);
- assistance completing and filing forms and other court documents;
- qualified sign language interpreters;

- assistive listening devices, video phones, and Communication Access Real Time Transcription (CART captioning); and
- permitting companions, support workers, care or assistance providers or coordinators, and family members to accompany, support, and assist people with disabilities.

C. Physical Access to Court Facilities

While the ADA requires, at minimum, programmatic access, courts also strive to provide full, feasible physical access to court facilities. Court facilities may include:

- routes of entry, entrances, and parking spaces;
- clerks' offices, including public service counters;
- courtrooms and elements (jury box, witness stands, counsel tables, and courtroom detention or holding facilities);
- lawyer conference rooms;
- jury deliberation space;
- restrooms, including access for the individual with the disability and any care provider, attendant, or companion; and
- any common areas, including cafeterias, family spaces, children's rooms, nursing rooms, remote hearing access rooms, help desks, and resource centers.

D. Accessing Courts and Court Activities Remotely

As remote court activities continue to expand, including, but not limited to, remote court appearances, remote access to court documents and docket information, and electronic filing, courts must consider their obligations under the ADA and IHRA to provide programmatic access to these avenues of utilizing court activities. Courts should routinely check that their remotely offered court activities are accessible, including meeting website accessibility standards such as the Website Content Accessibility Guidelines (WCAG) and the Section 508 standards, which the federal government uses for its own websites, providing support to people with disabilities who are accessing remote court programs, or granting exemptions to mandatory remote programs (for example, exempting people with disabilities from mandatory e-filing requirements when their disability prevents them from e-filing).

Moreover, courts should consider how remote court activities may be necessary to accommodate people with disabilities and allow them to access court activities in as integrated a setting as possible. However, courts must not require a person with disabilities to use any such special or alternate offering. The person with disabilities has the right to choose whether to participate in the standard offering or in an alternate option.

**IV. Notice That Accommodations Are Available**

The court and the CDC shall provide notice that accommodations are available to ensure that people with disabilities have equal opportunity to participate in court activities by:

- completing the notice attached as Exhibit B with the contact information (name, address, phone number, and e-mail address) for the court's CDC(s) or a designee;

- posting the notice attached as Exhibit B in an accessible location near public entryways and in all offices that are open to the public; and
- posting the notice attached as Exhibit B in an accessible format on the court's and clerk's websites.

#### **V. Request for Accommodations**

The CDC shall provide a request form to people who wish to request services or accommodations for persons with disabilities. The request form, attached as Exhibit C, shall be available in an accessible format (in a fillable, accessible PDF) on the court's and clerk's websites and in the court's and the clerk's offices. However, the person making the request may submit it in any form, written, verbal, or other, and the court may not require completion of Exhibit C or any other form or format.

Whenever possible, a request for accommodation or services should be made ten (10) business days in advance of the court activity. The court shall make reasonable efforts to honor an accommodation request whenever it is received, *even if it is not ten (10) business days in advance of the court activity*. If the court receives an accommodation request that cannot be fulfilled in advance of the court activity, the court may continue, extend, or reschedule it in order to accommodate the request.

The request shall be as specific as possible and include a description of the accommodation sought and the date the accommodation is needed. If the request does not include enough information, the CDC may ask for additional information, but it must be limited to information necessary to meet the elements of a reasonable accommodation. The request may be in any form, including written, verbal, or other means (including by email or automated submission process), and *may only require the information necessary to establish that a reasonable accommodation is related to the need of the person with the disability*. Moreover, the request may be explicit or implied; a person with a disability does not need to make a formal request to receive an accommodation (e.g., a person with low vision can ask for and receive help completing a form from a clerk without explicitly requesting an accommodation related to the person's disability).

While the request should be directed to the CDC, any court personnel (i.e., clerks, deputies, judges, staff, etc.) can receive a request and can either grant the request or convey the request in any format to the CDC. If the request is made in writing to court personnel who are not the CDC, the court personnel receiving the request shall mail, e-mail, hand deliver, or otherwise relay the request to the CDC.

The CDC shall respond in both writing and in the format accessible to the person making the accommodation request within at least seven (7) business days from the date the request was received or sooner as the circumstances dictate. Any response to a reasonable accommodation request shall inform the person making the request of the grievance procedure described below.

The CDC shall grant any reasonable accommodation necessary to ensure a person with a disability has access and can fully and equally participate in and benefit from court activities,

where the accommodation would not result in a fundamental alteration in the nature of a court activity, or undue financial or administrative burden to the court.

With respect to ensuring effective communication, the CDC will give **primary consideration** to the request of the individual with a disability, meaning that the court will honor the choice of the individual, unless it demonstrates that another equally effective accommodation is available, or that the requested accommodation would result in a fundamental alteration of court activities or undue financial or administrative burdens.

## **VI. Grievance Procedure**

A **grievance** is a complaint alleging any action or inaction that violates this policy, the request for accommodations procedure, the ADA, or the IHRA. People have the right to file a grievance when they believe the court and/or its employees have not complied with the provisions of this policy, the request for accommodations procedure, the ADA, or the IHRA. A grievance may be filed at any time, but to address the issue in a timely fashion, it should be made within fifteen (15) business days after the person filing the complaint becomes aware of the action or inaction. While the grievance is being resolved, the person may request a stay of court proceedings or the court may enter a stay of court proceedings. The grievance procedure is not intended to unreasonably delay the court process.

The grievance may be in any form, including written, verbal, or other means (including by e-mail or automated submission process) and made to the CDC or a designee. If conveyed in writing or electronically, the person may use the grievance form attached as Exhibit D. The grievance shall contain the name and contact information of the person filing the complaint, and briefly describe the alleged violation.

Within ten (10) business days after receipt of a grievance, the CDC or a designee may meet with the person submitting the grievance, either in person, by video, or by telephone, in a format accessible to the person submitting the grievance to discuss the complaint and possible resolutions, if the CDC or designee decides such a meeting would be helpful to a determination. Within ten (10) business days after the meeting, or within twenty (20) business days after receipt of the grievance if there is no meeting, the CDC shall respond in writing, and in a format accessible to the person submitting the grievance. Any response to a grievance shall inform the person making the grievance of the appeal procedure described below.

Independent of the resolution of the grievance procedure, the person submitting the grievance retains the right to pursue legal action for any alleged violations of the ADA and IHRA, and such rights are not dependent on exhausting the grievance, appeal, or other administrative procedure.

## **VII. Appeal Procedure**

If the response by the CDC does not resolve the issue to the satisfaction of the person submitting the grievance, the person may file an appeal after receiving the CDC's response to the grievance decision to:

- the Chief Judge of the relevant Circuit for decisions arising out of the Circuit Courts,

- the Presiding Justice of the relevant Appellate District for decisions arising out of the Appellate Court,  
or
- the Chief Justice for decisions arising out of the Supreme Court.

To address the issue in a timely fashion, the appeal should be made within fifteen (15) business days of the date of the CDC's written response. While the appeal is being resolved, the person may request a stay of court proceedings or the court may enter a stay of court proceedings. The appeal procedure is not intended to unreasonably delay the court process.

The appeal may be in any form, including written, verbal, or other means (including by e-mail or automated submission process). If conveyed in writing or electronically, the person may use the appeals form attached as Exhibit E.

Within twenty (20) business days after receipt of the appeal, the applicable Chief Judge, the Presiding Judge of the Appellate District, or the Chief Justice (or their representative) will respond with a final resolution of the grievance procedure in writing and in a format accessible to the person submitting the grievance.

Independent of the resolution of the appeal procedure, the person submitting the appeal retains the right to pursue legal action for any alleged violations of the ADA and IHRA, and such rights are not dependent on exhausting the grievance, appeal, or other administrative procedure.