



Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

Janice M. Holder

Elizabeth A. Sykes

Index #: 2.07

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Approved by: Chief Justice Janice M. Holder and Elizabeth A. Sykes, Director

Subject: Americans with Disabilities Act

- I. Authority: T.C.A. §16-3-803, 42 U.S.C. 12131 *et seq.* (Americans with Disabilities Act)
- II. Purpose: To ensure that all individuals have equal access to judicial programs and to prohibit discrimination against any individual on the basis of physical or mental disability in accessing or participating in its programs.
- III. Application: All employees of the Judicial Branch.
- IV. Definitions:
 - A. Disability: 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 an impairment; or being regarded as having such an impairment.
 - B. Facility: All or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure or equipment is located.
 - C. Individual with a disability: A person who has a disability.
 - D. Qualified individual with a disability: An individual with a disability who, with or without reasonable modification to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.
- V. Policy: It shall be the policy of the Judicial Branch of the State of Tennessee to prohibit discrimination against any qualified individual on the basis of physical or mental disability in accessing or participating in its

judicial programs. The Judicial Branch shall conduct its services, programs or activities, when viewed in their entirety, in a manner that is readily accessible to and usable by qualified individuals with disabilities.

VI. Procedures:

A. Upon request, the Tennessee Judicial Branch will provide reasonable modifications to its rules, policies, services, procedures, and practices when doing so is necessary to provide effective access to a qualified individual with a disability. A “reasonable modification” may include, but is not limited to, furnishing, at no charge, auxiliary aids and services, which include but are not limited to equipment, devices, materials in alternative formats, and qualified interpreters or readers; and relocating judicial programs, services or activities to alternate accessible facilities or alternate accessible sites. Such modifications shall be designed to make each service, program, or activity, when viewed in its entirety, readily accessible to be usable by a qualified individual with a disability.

B. In the event that the reasonable modification requires relocation of a judicial program, service or activity to an alternate facility or site, the alternate facility or site shall comply with the requirements of the Americans with Disabilities Act and the Tennessee Public Buildings Accessibility Act. The alternate facility or site shall also comply with Tennessee law concerning the location of county courthouses.

The Local Judicial Program ADA Coordinator in a county where the county courthouse is not ADA compliant, shall maintain a list of alternate facilities or sites that may be used for relocation of judicial programs, services and activities. An up to date copy of the alternate facility or site list shall be submitted to the Tennessee Judicial Program ADA Coordinator.

C. The Tennessee Judicial Branch has Judicial Program ADA Coordinator, employed by the Administrative Office of the Courts (AOC), who oversees the administration of this policy, any complaints associated with issues raised by this policy, and Requests for Modification under the Americans with Disabilities Act within the Judicial Branch, and will have the ultimate responsibility for compliance with this policy.

D. The Tennessee Judicial Program ADA Coordinator will designate a Local Judicial Program ADA Coordinator for each county in a judicial district, who will be responsible for handling all Requests for Modification to access judicial programs, activities and services within that county. The Local Judicial Program ADA Coordinator

should be involved with or familiar with the judicial program of the county.

- E. Persons requiring modification to obtain access to judicial programs, services or activities at any facility used for such purposes should contact the Local Judicial Program ADA Coordinator (Coordinator). A written Request for Modification is preferred. However, this request may be made by telephone to the Coordinator. In such instances, the Coordinator shall commit such requests to writing. The Coordinator shall maintain a record of all Requests for Modification. A Request for Modification form is available and may be obtained from the Local Judicial Program ADA Coordinator, the Tennessee Judicial Program ADA Coordinator, any court clerk's office, or online at www.tncourts.gov. If appropriate or upon request, the Local Judicial Program ADA Coordinator or the Tennessee Judicial Program ADA Coordinator will provide assistance with writing and submitting the written request for Modification. Large print and Braille versions of the Request form are available upon request. If appropriate, other personnel associated with the judicial program, service or activity may assist the applicant in the submission of a completed Request for Modification to the Coordinator.

The written Request for Modification shall include a description of the person's disability, the role of the person in the judicial proceeding, the Modification sought, the date and time of the Modification requested, and the judicial proceeding for which the Modification is sought. Once a Request for Modification has been granted, the Local Judicial Program ADA Coordinator will advise the applicant of the procedure to be followed with regard to subsequent proceedings associated with the original Request. If necessary, the Local Judicial Program ADA Coordinator may require the applicant to provide additional information about the qualifying disability in order to determine the appropriate Modification to meet the applicant's needs, but only such information that may be required to make such a determination. Under no circumstances will the Local Judicial Program ADA Coordinator be permitted to request information regarding the applicant's disability that is not necessary for the evaluation of the Modification requested.

- F. An application requesting Modification may be submitted by any lawyer, party, witness, juror or other individual with an interest in attending any judicial program, activity or service or another person on behalf of such interested person.
- G. The Request for Modification should be submitted with as much advance notice as possible, but in any event should be made no less than five (5) business day prior to the date for which the

Modification is sought. An immediate Request for Modification should be made when urgent and/or emergency circumstances arise. In criminal cases where a defendant is confined to jail, the Request for Modification should be made as soon as possible. However, it may be necessary that the Request for Modification may be made contemporaneously with his or her initial court appearance.

- H. In the event that a person requiring a Modification has not made a timely Request for Modification, the court may, in its discretion, immediately grant such Modification without requiring an advance written request. In such a case, a Request for Modification form shall be completed by either the person requesting Modification or court personnel for the court's records. Alternately, the court may, in its discretion, postpone, reschedule or otherwise delay the judicial program, service or activity affected. Under such circumstances, the individual requesting Modification shall be required to immediately submit a written request. If appropriate or upon request, court personnel will provide assistance with writing and submitting the request for Modification.
- I. The Local Judicial Program ADA Coordinator will, as soon as practicable, notify the requesting individual of the Modification to be provided. An alternate Modification may be offered instead of the requested Modification if the Local Judicial Program ADA Coordinator determines that another equally effective Modification is available.
- J. If the Local Judicial Program ADA Coordinator determines that additional time may be necessary in order to achieve and/or obtain Modification, the Local Judicial Program ADA Coordinator shall notify the judge presiding over the matter, who will determine an appropriate course of action.
- K. A request for Modification may be denied only if the Local Judicial Program ADA Coordinator finds that:
 - 1) The person making the request is not a qualified individual with a disability; or,
 - 2) The requested Modification would create an undue financial or administrative burden; or,
 - 3) The requested Modification would fundamentally alter the nature of the judicial program, service or activity; or,
 - 4) Some other Modification would be as effective and involve less cost or inconvenience; or,

- 5) The applicant has refused to comply with this Policy; or,
 - 6) The applicant's failure to comply with this Policy makes impossible or impracticable the ability to provide the requested Modification.
- L. No employee of the Judicial Branch of the State of Tennessee shall retaliate against any person who exercises his/her rights under the Americans with Disabilities Act or who requests modification pursuant to this policy.
- M. If a Request for Modification is denied or the offered alternate Modification is unsatisfactory to the applicant, the applicant may appeal the decision of the Local Judicial Program ADA Coordinator to the presiding judge of the judicial district within ten (10) days of the denial of Modification or offer of alternate Modification. The judge shall rule on the appeal as soon as practicable, and where possible, in advance of the date of the hearing for which the Modification is requested.
- N. If an applicant is dissatisfied with the ruling of the presiding judge, the decision may be appealed, within ten (10) days of the ruling, to the Director of the Administrative Office of the Courts, or his/her designee. A written request must include reasons for disagreement with the previous determinations, as well as the remedy sought. The Director shall provide a ruling as to the request as expeditiously as possible. In resolving appeals, the Director is authorized to independently investigate the facts surrounding the appeal and has the discretion to utilize appropriate dispute resolution processes or other methods, including but not limited to, designating an appropriate neutral to assist in resolving the issues in controversy.
- O. A public notice shall be posted in visible places throughout each facility where judicial programs, services and/or activities are held, including but not limited to each court clerk's office, that identifies the Local Judicial Program ADA Coordinator and the Tennessee Judicial Program ADA Coordinator. Such public notice shall also provide a website address where a copy of this policy, implementation guidance, and Request for Modification form may be obtained electronically.
- Should the courthouse facility within which judicial programs, services and/or activities are provided be inaccessible, a public notice shall be posted on the outside of the building or at another such location at or near the building that is readily accessible.
- P. When a summons, subpoena, juror summons or other pleading, order or document compelling participation in a judicial program,

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service or activity is issued, said documents shall provide notice of the identity of the Local Judicial Program ADA Coordinator, the Tennessee Judicial Program ADA Coordinator and a specific designation as to how each may be contacted, including telephone numbers and email addresses. Such notice shall also provide information about program accessibility and the procedure for submission of requests for reasonable modifications. Such notice shall also provide a website address where a copy of this policy and Request for Modification request form may be obtained electronically. In the alternative, an abbreviated form of notice, i.e. a stamped or printed statement, that may be integrated onto a pre-printed form, may be provided on such documents that provides contact information for persons requiring assistance under the Americans with Disabilities Act, e.g. "For ADA assistance, please call (insert contact information for Local Judicial Branch ADA Coordinator)."

REQUEST FOR MODIFICATION
Applicant requests accommodation under Tennessee Judicial Branch Policy 2.07

Applicant Information

Applicant is: _____Witness _____Juror _____Attorney _____Party _____Other (Specify Nature of Interest): _____

Name: _____ **Court:** _____

Telephone: _____

Address: _____

Judge: _____ **Case No.:** _____

Type of proceeding: Criminal _____ Civil _____

Proceedings to be covered (e.g., bail hearing, preliminary hearing, particular witnesses at trial, sentencing hearing, motion hearing, and trial): _____

Dates modification needed (specify): _____

Disability necessitating modification (specify): _____

Type of modification requested (specify): _____

Special requests or anticipated problems (specify): _____

I hereby certify that the above information is true and correct to the best of my knowledge.

Date: _____

_____ (Signature of Applicant)

The request for modification is **GRANTED**.

OFFER OF REASONABLE ALTERNATE MODIFICATION _____

The request for modification is **DENIED** because:

- _____ the applicant is not a qualified individual with a disability
- _____ the requested modification would fundamentally alter the nature of the judicial program, service or activity
- _____ the requested modification would create an undue financial or administrative burden
- _____ the applicant refused to comply with the Policy
- _____ the applicant's failure to comply with the Policy makes impossible or impracticable the ability to provide the requested Modification

(Specify) _____

DATE: _____

_____ Local Judicial Program ADA Coordinator

APPEALS

Presiding Judge Review requested. (Specify reason and the remedy you want): _____

DATE: _____

(Signature of Person Requesting Review)

PRESIDING JUDGE REVIEW

I have reviewed the original request for modification, the offer of alternate modification OR the denial of modification and the reason for the denial, and the reason that this review has been requested and find as follows: _____

DATE: _____

PRESIDING JUDGE

Administrative Office of the Courts Review requested. (Specify reason and the remedy you want): _____

DATE: _____

(Signature of Person Requesting Review)

ADMINISTRATIVE OFFICE OF THE COURTS REVIEW

I have reviewed the original request for modification, the offer of alternate modification OR the denial of modification and the reason for the denial, and the reason that this review has been requested and find as follows: _____

DATE: _____

AOC DIRECTOR

PUBLIC NOTICE

The Americans with Disabilities Act prohibits discrimination against any qualified individual with a disability. The Tennessee Judicial Branch does not permit discrimination against any individual on the basis of physical or mental disability in accessing its judicial programs. In accordance with the Americans with Disabilities Act, if necessary, the Tennessee Judicial Branch will provide reasonable modifications in order to access all of its programs, services and activities to qualified individuals with disabilities.

If you require a modification to access the judicial program and/or have special needs because of a qualified disability, you must submit a written **Request for Modification** to the Local Judicial Program ADA Coordinator listed below at least five (5) business days prior to the date of the judicial program, if possible. A form is available from the Local Judicial Program ADA Coordinator or from the Tennessee Judicial Program ADA Coordinator.

If you need assistance, have questions or need additional information, please contact your Local Judicial Program ADA Coordinator:

If you need assistance, have questions or need additional information, you may also contact the Tennessee Judicial Program ADA Coordinator:

The Tennessee Judicial Branch Americans with Disabilities Act Policy Regarding Access to Judicial Programs, as well as a Request for Modification form may be found online at www.tncourts.gov.

NOTICE

(To be sent along with Summons, Subpoenas, Juror Summons or other order compelling participation in a judicial program)

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If you require a modification to access the judicial program and/or have special needs because of a qualified disability, you must submit a written **Request for Modification** to the Local Judicial Program ADA Coordinator listed below at least five (5) business days prior to the date of the judicial program, if possible. A form is available from the Local Judicial Program ADA Coordinator or from the Tennessee Judicial Program ADA Coordinator.

If you need assistance, have questions or need additional information, please contact the Local Judicial Program ADA Coordinator:

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***ALTERNATIVE NOTICE FORM**

(To be sent along with Summons, Subpoenas, Juror Summons or other order compelling participation in a judicial program)

For ADA assistance, please call (insert contact information for Local Judicial Branch ADA Coordinator).

*This language is model language and may be amended for local court use.