



Disability Law Center's Self-Advocacy Materials

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Civil Rights

This document is designed for people with disabilities.

The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



When a Party to a Court Case Can Ask the Court System for a Reasonable Accommodation Under the Americans with Disabilities Act (ADA)

You Will Learn About:

- How parties to a court case can ask for a reasonable accommodation under the Americans with Disabilities Act (ADA).
- When to ask for your accommodation by either a Motion or a Request.

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

What Is a Reasonable Accommodation? Who may receive one?

A **reasonable accommodation** under Title II of the ADA is a change in a rule, policy, practice, or service that is necessary to give a **person with a disability** an equal opportunity to benefit from the program, services and activities of state government. This information sheet is specifically about accommodations that people with disabilities may seek in interacting with the **state court system** when they are **parties to a court case**. (Witnesses or jurors can also ask for accommodations; this topic is outside the scope of this information sheet.)

State entities, including state court systems required to provide reasonable accommodations for individuals with disabilities unless doing so would be an **“undue financial or administrative burden”** or a **“fundamental alteration”** on the courts. This may include looking at whether your request may impact the **substantive or procedural rights of another** party in your court case. Whether a request for an accommodation is reasonable is decided on a case-by-case basis.

A **person with a disability** is someone with a physical or mental impairment that substantially limits one or more major life activities. This includes but is not limited to: walking, reaching, lifting, breathing, seeing, hearing, working, learning, communicating, and caring for oneself, as well as the operation of major bodily functions, such as the immune system, normal cell growth and digestive, neurological and respiratory functions.

When can a party to a court case (a litigant) ask the court for a reasonable accommodation?

A party to a court case may ask for many different types of accommodation. Each type of accommodation must be evaluated separately since some requests are stronger than others.

Litigants to a court case have relatively clear rights to accommodations when a disability interferes with the litigant’s ability to participate in court and another solution is or should be reasonably achievable which does not affect the rights of other parties or the public. This may include situations where the litigant needs an **ASL interpreter**, or a **courtroom without physical barriers**, or **reasonable adjustments in how testimony is taken or evidence is received** to allow that person to participate fully and effectively.

Litigants might also receive accommodations for disability issues related to the time of day in which cases are heard, or the length of the proceeding, including shorter time periods to account for fatigue or longer time periods needed for communication.

As with most accommodation requests, these cases are **judged individually** on a case-by-case basis depending upon the facts of each request, with **few bright lines**. The law also asks both the state (the court) and the litigant to **engage in an interactive process of creative problem-solving**, requiring flexibility by all concerned.

While litigants are successful in **changing the procedures** used in court as part of a reasonable accommodation request, it is **more difficult to alter the underlying law** and the substantive rights of the parties. For example, if a tenant has disabilities which affect their ability to search for new housing and is otherwise able to be evicted, the judge may say that a request for more time to search for housing is not a reasonable accommodation request. The judge may conclude that the amount of time given to the tenant is **governed by landlord-tenant law, and not by the requestor's disability rights** to ask the court for an accommodation.

What form should a litigant complete to make reasonable accommodation request to the court, a MOTION or a REQUEST?

The form that you should complete depends upon the type of accommodation you are seeking. Some accommodations are requested by a **MOTION** and some are made by a **REQUEST**.

A **MOTION** is used where your interests must be **balanced against the interests another party, or where the accommodation affects how the courtroom is run**.

Examples of accommodation that would be made by a MOTION include:

- additional time to submit documents;
- changes to the way testimony is given;
- an extension of time;
- a request for frequent breaks in the court proceedings;
- a hearing held at a specific time of day;
- permission to use personal readers and a notetaker;
- presence of an animal other than a trained service animal;
- remaining seated during a proceeding;
- use of other equipment in the courtroom provided by the requestor; or
- having a Zoom video conference hearing.

These accommodations are made by a **MOTION** and sent to the Clerk's office in which your case is being heard. A form for a **MOTION** is found at <https://courtforms.jud.state.ma.us/publicforms/TC0034>

The **MOTION** will be sent to the judge or clerk magistrate for a decision and possibly for a hearing. A **MOTION** is both filed in the court and sent to other parties in the case.

A **MOTION** is generally able to be viewed by the public unless it is "impounded." To request impoundment please complete that portion of the Motion form, explaining why you do not want your Motion to be available for public inspection.

Information about the grounds for impounding a motion is available at <https://www.mass.gov/trial-court-rules/uniform-rules-on-impoundment-procedure-rule-8-order-of-impoundment#:~:text=An%20order%20of%20impoundment%20shall,for%20expiration%20of%20the%20order.>

A **REQUEST FORM** may be used for accommodations that do not affect the rights of other parties or how the court is run. These may include:

- Assistive Listening Device.
- CART (Communication Access Real-Time Translation).
- Digital Audio Reading
- Large Print.
- Sign Language Interpreter (including ASL)
- Use of Powered (non-manual) Mobility Device other than motorized wheelchair that will be provided by the Requestor

A REQUEST is sent to the ADA Coordinator for your court. Those are ordinarily confidential. A form for a **REQUEST** is found at: <https://courtforms.jud.state.ma.us/publicforms/TC0035>

What other information should litigants include when making reasonable accommodation Motions or Requests to the court?

Look for the box in either the MOTION or the REQUEST form which asks you to “**Describe the nature of the disability that makes an accommodation necessary** (*field will expand vertically*).”

- Explain you are **asking for a reasonable accommodation** under Title II of the Americans with Disabilities Act (ADA) and describe exactly the accommodation(s) you are seeking.
- **Explain your disability** in detail if necessary, explaining how aspects of your disability affect your ability to fill your role in this court case.
- Explain why the accommodation you are seeking relates to your disability and **why the accommodation is necessary**. It is not enough to have a disability and to be seeking an accommodation. The disability must create or be related to the accommodation you are seeking.
- **Be ready to offer to supply medical documentation if it is requested from you.** Do **not** submit medical documentation until it is requested. If it is requested, a letter from a medical professional should explain your

disability and why the accommodation you are seeking is necessary in light of your disability for you to have an equal opportunity to participate in court.

If you have the opportunity to discuss your requested accommodation with the judge or court staff, **exercise flexibility** wherever possible. If their proposal is not workable for you, continue to suggest reasonable alternatives and do not break off discussions.

Document all aspects of your reasonable accommodation by seeking accommodations in writing and by keeping copies of all signed and dated correspondence. If your accommodation request is being denied, request a written decision with written findings. See *Adjartey v. Cent. Div. of Hous. Ct. Dep't*, 481 Mass. 830, 848-49 (2019) (<http://masscases.com/cases/sjc/481/481mass830.html>)

Where else should I make an accommodation request?

Consider the other parties in your court case. In some cases, they may be organizations, entities or businesses who may have obligations to make reasonable accommodations.

For example, **state or local agencies**, such as the Department of Children and Families (DCF) or a local housing authority, may have obligations to make reasonable accommodations under Title II of the ADA.

Businesses or service providers may have similar obligations under Title III of the ADA.

Landlords may have similar obligations under fair housing law (the federal Fair Housing Act or state law, G.L. c.151B sec. 4.)

Entities receiving government funds may have reasonable accommodation obligations. (Section 504 of the Rehabilitation Act of 1973).

If one of these types of entities is a party to your case, you may also wish to **send a reasonable accommodation request directly to them**. This topic is outside the scope of this information sheet. However, generally a request can be made simply by a **signed and dated letter explaining who you are, your disability, the accommodation you are seeking and why your disability makes this accommodation necessary for you**. Make sure to keep a copy. If the other party refuses your accommodation request, you may wish to tell the court this in raising your claims or defenses.

Forms for making a reasonable accommodation request to other types of entities are available on the DLC website.

Other Resources

Where Do You Go If You Still Need Legal Help?

- General information about the ADA policies of the Trial Court is available at:

<https://www.mass.gov/lists/court-forms-related-to-the-americans-with-disabilities-act-ada#trial-court:-ada-forms->

<https://www.mass.gov/info-details/how-to-ask-for-a-court-accommodation-under-the-americans-with-disabilities-act>

<https://www.mass.gov/info-details/frequently-asked-questions-about-ada-accessibility-at-the-courts>

- If you disagree with a decision by a judge, you must move for reconsideration or file an appeal. If your request was denied by court staff, you can file an ADA grievance here: <https://www.mass.gov/info-details/court-grievance-procedure-under-the-americans-with-disabilities-act-ada>
- To file an administrative complaint with the U.S. Department of Justice, which enforces Title II of the ADA, you may report a civil rights violation using the information available at <https://www.justice.gov/usao-ma/civil-rights#:~:text=If%20you%20need%20further%20assistance,the%20Civil%20Rights%20Intake%20Specialist> or you may file an complaint in federal district court. Please consult with an attorney regarding deadlines for filing your complaint.

If you need legal representation or advice, please call the Disability Law Center (DLC) at 1-800-872-9992. Or, please fill out the online form here: <https://www.dlc-ma.org/ask-for-help/>. Unfortunately, we do not have the resources to help everyone who calls us.

If DLC cannot provide you with either legal representation or advice, we may refer you to:

- The ADA coordinator for the trial court system
- The U.S. Attorney's office / U.S. Department of Justice
- Your local legal service program (see <https://www.masslegalservices.org/FindLegalAid>)
- Your local bar association referral service