

Appendix
Accommodations for Persons with Disabilities
By Brian East, Senior Attorney, Disability Rights Texas

1. Introduction

The ADA and other laws apply to state and local courts,¹ as well as to attorneys.² These laws prohibit disability discrimination, and generally require that courts and lawyers provide equal access and an equal experience. Specific obligations include:

- Providing auxiliary aids and services (e.g., interpreters, captioning) to ensure effective communication
- Providing accessible electronic and web content
- Providing reasonable modifications to policies and practices
- Avoiding criteria or methods of administration that have a discriminatory impact (whether done directly or via contracts, etc.)

2. Give instructions for requesting modifications or auxiliary aids and services

- Invite people to ask for any modifications or auxiliary aids and services
- Describe in detail how parties should make the request
- Do not require a specific form or rigid adherence to the court’s preferred process for requesting accommodations
- Avoid inflexible deadlines if possible
- Make sure the information is available in accessible formats

3. When attorney, party, or witness is blind or has low vision

- Ensure that web pages are accessible to and usable by screen-reader technology³
- Use a video platform that is usable by screen-reader technology (Zoom is considered generally accessible to blind individuals who use screen readers)
- Make sure that any documents being used, including exhibits, are in accessible formats
 - Word and PowerPoint documents have built in accessibility checkers
 - PDF documents are only accessible if the Select Text function works (i.e., OCR)
- Ensure, to the extent possible, that any documents are circulated in advance
 - Understand that Share Screen functions may not work for individuals who are blind
 - Understand that functions done during the hearing such as zooming in and highlighting may not translate
- Design any kiosks with accessible features (e.g., “talking,” etc.)⁴

¹ 42 U.S.C. § 12131(1).

² 42 U.S.C. § 12181(7)(F).

³ An accessible website generally means it complies with WCAG 2.0 Level AA. See 1 T.A.C. § 206.70(a). *See also* Accessibility Policy of the Texas Judicial System is online at <https://www.txcourts.gov/site-policies/accessibility-policy/>.

⁴ For an example of an accessible kiosk, see the 2010 ADA Standards for Accessible Design, Sec. 707 (“Automatic Teller Machines and Fare Machines”), available online at <https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#pgfld-1006537>.

4. When attorney, party, or witness is deaf or hard of hearing

- Determine the primary or preferred method of communicating (e.g., American Sign Language; Signed Exact English, real-time captioning [CART], etc.)
- Have ongoing contracts with interpreting and captioning services
- When the primary method of communication is sign language:⁵
 - Remember state law requirements for interpreters⁶
 - Arrange for interpreter team to join video hearing as official interpreters
 - Ensure that interpreters are court-certified and fluent in the relevant sign language
 - Do not use the telephone “relay” service for interpreting
 - Do not use back and forth writing with deaf individuals unless they request it
 - Do not rely on lip-reading
 - Avoid using TTD or TTY machines
- If the deaf individual has an attorney or advocate:
 - Ask attorney/advocate if she will be using a “table” interpreter (i.e., a separate interpreter for private discussions)
 - Be prepared to place advocate, client, and table interpreters into a private “room” for confidential discussions
- For real-time captioning:⁷
 - Use a professional CART provider rather than assuming a court reporter can do it
 - Avoid automated captioning services or programs
- Lip-reading:
 - Do not rely on lip-reading for deaf individuals who primarily communicate by sign
 - Occasionally, individuals who are hard of hearing (and particularly those who do not sign) do use lip-reading as part of their communication process, and if that is the case, make sure that speakers are close enough to the camera and well lit.

5. Other Common Modifications/Accommodations

- Recognize that some individuals will use a telephone to connect, and may have no webcam.
- Ensure that materials and information use plain language.
- Even after courts re-open, consider remote attendance if needed as a reasonable accommodation because some people have the needed equipment at home and prefer to use it due to familiarity, etc.
- If remote attendance is impossible, consider continuing the hearing to a time that minimizes risk of exposure to COVID-19.
- If remote attendance is impossible, consider relocating to a place that allows more distancing.

⁵ The ABA’s Commission on Disability Rights has published step-by-step instructions for using interpreters on the Zoom platform, available online at https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/covid/zoomaccessibility.pdf.

⁶ See <https://www.txcourts.gov/lap/>.

⁷ The ABA’s Commission on Disability Rights has published step-by-step instructions for providing Closed Captioning on the Zoom platform, available online at https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/covid/zoomaccessibility.pdf.