

***IMPLEMENTATION OF THE AMERICANS WITH  
DISABILITIES ACT IN THE  
NEW JERSEY JUDICIAL SYSTEM***

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## **IMPLEMENTATION OF THE AMERICANS WITH DISABILITIES ACT IN THE NEW JERSEY JUDICIAL SYSTEM**

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### **Introduction**

The New Jersey State Administrative Office of the Courts (AOC) set out in 1993 to establish a comprehensive program to implement the Americans with Disabilities Act and other applicable disability laws throughout the courts in New Jersey. The greatest challenge in implementing the ADA program would be to develop an ADA structure and training base that over time could institutionalize providing access and accommodations into the administrative processes of the courts.

It soon became evident that it would not be sufficient to merely provide guidance and assistance to the courts through a cadre of ADA Coordinators. This assessment was reinforced at a symposium held at Gallaudet University in Washington, D.C. that discussed accessibility to courts for persons who are deaf and hard of hearing. Attendees lauded New Jersey Courts for having perhaps the most comprehensive ADA program of any state. However, an attorney who represents many deaf litigants in New Jersey, after adding testimonial about the willingness of the New Jersey AOC to provide accommodations, noted that many in the “deaf community” would still have difficulty acquiring accommodations

because they may not be represented by an attorney, and may not be familiar enough with the court system to know about the ADA coordinators, or how to ask for an accommodation.

The integration of providing accommodations into court processes is not limited to people functions; it involves automated systems as well. This became apparent when a citizen addressed the Judiciary ADA Committee about problems incurred when trials or hearings are rescheduled and the need for an accommodation (auxiliary aid or service) does not carry forward to the new date. When a sub-committee convened to look into this issue, the resolution was quite simple. The Judiciary's Automated Tracking System (ATS) follows case flow. The ATS database is developed from the Case Information Statement, which among other information has a field indicating if an accommodation was requested. The problem was that this accommodation field was on the second screen, and the scheduling clerk only needed the information on the first screen to reschedule a trial or hearing. The resolution was to block the rescheduling function until a yes/no entry is given in the accommodation required field.

So, in order to effectively institutionalize disability access, the New Jersey AOC had to look at all aspects of how the courts conducted business, from scheduling court dates, querying prospective jurors, to conducting probation reporting, and home visits. The AOC also found it difficult to pinpoint authority and responsibility between the State Judiciary and State and local executive branches of government for implementing some of the ADA requirements. There was a decision to include the 537 municipal courts (courts of limited jurisdiction) in the Judiciary ADA program even though the State Judiciary and AOC do not exercise direct control over these courts, which are established by, and whose judges are appointed by, the executive branch of the municipal governments. This relationship with the municipal courts and the fact that the 21 State Superior Courts (courts of general jurisdiction) operate in county-owned or county-leased facilities, sometimes obscures clear lines of authority and responsibility for ADA issues dealing with facilities matters such as barrier removal, permanently installed

technologies and equipment like assistive listening devices, public text telephone devices, and other facilities-related ADA matters.

Nonetheless, the AOC has been successful in establishing uniform policies statewide that foster Judiciary compliance with the ADA. The AOC blueprint focused on a comprehensive ADA structure and five principal functions: (1) providing notice and public awareness of the Judiciary's ADA program, (2) training all judges and staff, (3) providing technical assistance from the AOC and local ADA coordinators, (4) accurate accommodation reporting, and (5) effective complaint resolution. Although the program fully encompasses both Title I employment matters and Title II access to programs, services, and activities, only Title II will be discussed here.

At the AOC, the Court Access Unit within the Management Services Division was assigned responsibility for developing the ADA program and providing training and technical assistance for its implementation. Its first step was to assure that the five administrative requirements of the ADA were met, the first two of which had already been accomplished. Each court and the Central Offices had completed self-evaluation plans to survey and determine if its programs, services, and activities were accessible to the public; and the State and local executive branches of government who owned the court facilities had prepared transition plans to identify physical barriers and established priorities and timetables to accomplish removal.

The remaining administrative requirements were accomplished by the Court Access Unit and articulated to the public and employees in a Judiciary ADA brochure and on the Judiciary website. These requirements: notice to the public, development of ADA complaint procedures, and appointment of ADA Coordinators remain key features of the ADA program.

### **Judiciary ADA Structure**

The key figure in the implementation of the ADA program is the local ADA coordinator. Local coordinators were appointed for each of the statewide courts

(Supreme Court, Appellate Division, and Tax Courts) and for Central Office Agencies such as the Disciplinary Review Board, Office of Attorney Ethics, and the AOC. The State's 21 Superior Courts (courts of general jurisdiction) are organized for administration into 15 vicinages, each supervised by an Assignment Judge who is the decision-making authority for ADA matters. Each Assignment Judge has appointed an ADA Coordinator to carry out the day-to-day implementation of the ADA program. It was initially intended that these vicinage ADA Coordinators could also directly assist the municipal courts (courts of limited jurisdiction) within the vicinages' geographic areas, but it soon became evident that with 537 municipal courts this was not feasible. Consequently, each municipal judge appointed an ADA coordinator. The vicinage coordinators, however, continue to provide guidance and technical assistance to the municipal courts. Most ADA Coordinators at the Superior Court level are managers, often the vicinage Operations Manager or Assistant Trial Court Administrator. Over the past ten years there has been little turnover in coordinators so there is a high level of experience. In most vicinages, ADA liaisons have been appointed and trained in each of the court divisions--family, criminal, and civil--to focus efforts toward staff awareness of accommodation policies and procedures, particularly for those staff who have direct contact with the public.

The second tier of the ADA structure is the AOC ADA Coordinators. The Chief, Court Access Unit serves as the Judiciary-wide Title II Coordinator and the Chief, Labor and Employment Law Unit is the Judiciary-wide Title I Coordinator. There is also a Judiciary-wide Coordinator for ADA technology. These are the individuals that develop and modify policies and procedures, and are the individuals the local ADA Coordinators, Assignment Judges, or other managers may turn to for guidance or assistance in handling requests or complaints.

The AOC Internal Committee for ADA Matters is a forum to which the most difficult ADA issues can be referred for guidance or discussion. This Committee consists of the AOC Coordinators and four staff attorneys who meet ad hoc, usually within a day of an issue being referred, to review and comment back to the

field. Normally the issues will be routed through the Chief, Court Access who will provide background information and facilitate discussion. Local coordinators are encouraged to seek this Committee's input prior to submission to the decision-making authority. This Committee over time has studied a wide range of ADA issues, which makes it a valuable asset to the decision-making authorities.

In 1993 the Chief Justice appointed a Judiciary Advisory Committee on ADA Compliance. Initially it had 35 members, mostly top executives from State and private agencies such as the Kessler Institute for Physical Rehabilitation, the State Commission for the Blind, the Division for the Deaf and Hard of Hearing, the Disabled American Veterans, and other such agencies, as well as, judges, local government officials, court administrators, and the bar associations. The purpose was to have a wide range of experts that could contribute to the development of ADA policies and procedures and help frame the court's ADA program.

The first working meeting was preceded by three training sessions for the members by a private consultant along with orientation on the role and functions of the court system, and review of the Judiciary's ADA self-evaluation plans. The Committee then drafted an ADA Policy Statement, which was adopted by the Supreme Court, and provided other guidance and oversight of the development of the Judiciary ADA program. Once these policies were implemented, the Committee was reconstituted to approximately half its original size and it continues to meet semi-annually to review compliance, new case law, annual accommodation statistics, and upon request, court user issues and comments. During the past four years, the local ADA coordinators (central office and vicinage level) have been attending the Committee meetings and this has brought a better understanding of the local impact and needs necessary to support compliance.

### **ADA Functions**

Success of the ADA program to provide accessibility to the courts is predicated on the accomplishment of the five functions previously mentioned, which are the core features of the ADA program. The first function is providing notice to the

**public**; generating awareness of the availability of accommodations and the procedures and contact information to acquire them. The AOC published a Judiciary brochure that contains the Judiciary Policy Statement, explains accommodation request and complaint procedures, and provides contact information for each court and central office agency. The brochure is available at each courthouse and through agencies such as the Division of the Deaf and Hard of Hearing, by mail upon request, and on the Judiciary website. Notices have also been sent to the State bar associations to improve awareness about accommodation needs and request protocols. Judiciary forms such as juror notices, the Uniform Traffic Ticket, summons, etc., contain the disability logo and solicit advance notice of accommodation needs. Other outreach efforts have included public service announcements and access hotlines published in phone directories. Signage is also used to identify the name, location, and contact number of the local ADA coordinator. Recently, all 537 municipal courts were given signage regarding the availability of sign language interpreters and other technologies to provide access for persons who are deaf and hard of hearing. The importance of this notice is to make the public aware that accommodation may be provided and to enhance the likelihood that advance notice is received so that disruption is minimized. Notice also serves a purpose in reinforcing staff awareness of the public's right to accommodations, so that staff will be receptive to requests.

**Judge and staff training** is a critical function to the success of the ADA program. The curriculum should cover technical aspects of the ADA, the Judiciary's policies and procedures for requests, reporting accommodations and complaints, explanation of the ADA structure, and where to get technical assistance. Over a one-year period, training was presented to every Superior Court judge, court administrator, and ADA coordinator at his or her work location. The training team, led by a judge, included the two AOC ADA Coordinators, an employment attorney, and the Judiciary's staff American Sign Language Interpreter. To sustain this training, every new judge receives ADA training as part of the mandatory New Judges Orientation Course. Workshops and training sessions have also been

presented to judges at the annual Judicial College. This year, for example, the topic was service by jurors with disabilities. Training was also presented to vicinage managers and supervisors, and was available to all staff on a volunteer basis. Beginning in the fall of 2001, ADA training has been included in a five-day new employee orientation program. Before 2000, municipal court judges and administrators received training from the AOC upon request. In 2001, the AOC trained an ADA coordinator for each of the 537 municipal courts and provided a binder outlining specific guidelines and standards for providing access for individuals with communicative disabilities.

Providing **technical assistance** is perhaps the most important role of the ADA coordinator at each level of the court system. The ADA coordinator provides advice and guidance to judges and court managers on the requirements of the ADA, is the conduit to outside agencies, support groups, and vendors for available services and technologies, and provides consultation on specific disability accommodation issues.

The AOC maintains a referral list of statewide resources for various disabilities and local coordinators maintain similar lists for coordination of local services and volunteers to assist with accommodations.

ADA **accommodation reporting** is a valuable management and compliance tool for maintaining the ADA program. The Court Access Unit developed an ADA Accommodation Report Form to record all requests for accommodation. The format was designed to support a database for statistical analysis and to document compliance.

The report is a simple one-page form to be completed by the court staff person receiving the request. The form captures the name and status (litigant, juror, attorney, court employee, or observer, etc.) of the requester. It also identifies the initial point of contact within the court system (judge, judge's secretary, court clerk, division manager, ADA coordinator, etc.). The other data captured includes nature of the proceeding (filing, pre-trial, motion, trial, etc.), nature of the disability, accommodation requested with date and estimated cost, accommodation

provided with date and actual cost. There is also a remark section (which is especially important when the accommodation is denied or different from what was requested) and a section for feedback from the requester. From the above information, the data recorded will support management decisions about what technologies or services are most needed.

The New Jersey AOC found, for example, that over the past five years, 80 percent of all reported accommodations have been for individuals who are deaf and hard of hearing. As a result, a staff ASL interpreter was hired, a second position is being considered, and additional assistive listening devices were acquired for courtrooms. The AOC was also able to identify which staff are most likely to receive the request for accommodation, so that efforts can be focused on appropriate training to those individuals. It also provides feedback as to what accommodations are effective and what costs were.

These reports provide specific documentation of what an individual requested and what accommodation was provided. This can be important if complaints are filed with the U.S. Department of Justice (DOJ), Equal Employment Opportunity Commission (EEOC), or if there is federal litigation. Often the first time the courts hear about a complaint may be a year or more after the fact, and the personal and institutional memory may not be there without these reports. The reports also demonstrate the history of good faith in providing accommodation.

Completed reports are filed with the local ADA Coordinator who reviews, consolidates, and sends the original reports monthly to the Court Access Unit at the AOC. Each report is reviewed by the Chief, Court Access Services and then entered into the statewide database. At the end of the year, an annual statistical report is presented to the Judiciary Advisory Committee and to all ADA coordinators and trial court administrators.

The Judiciary has adopted both informal and formal **complaint procedures** to resolve ADA issues. An informal complaint can be addressed to the local ADA Coordinator who will attempt to expeditiously resolve the claim or complaint. However, if this is not deemed appropriate or the individual wishes to file a formal

claim, it may also be done through the ADA Coordinator to the appropriate Assignment Judge or official identified in the Judiciary ADA brochure. The court attempts to render a determination in a formal complaint within 45 days, along with any proposed remedy. If the claimant does not agree with the original determination, a request for reconsideration may be filed with the Assignment Judge.

The New Jersey AOC has found that a well-advertised and efficient complaint process will be used, and in most instances, bring final resolution to legitimate claims. This process gives the courts a chance to rectify situations, which may have been mishandled or for other reasons may not have been effective in meeting an individual's needs.

Two other functions, design review of new construction and inter-agency coordination and outreach to disability support groups, have proven to be program multipliers. Pursuant to the recommendation of the ADA Committee, the New Jersey Administrative Director has asked all courts and Judiciary agencies to have construction designs (new or renovations) reviewed by the Court Access Unit. This has improved accessibility and added technologies that contribute to equal access. Cooperation with agencies such as the Division for the Deaf and Hard of Hearing, and open dialog with disability support groups has enhanced credibility and increases options in providing access.

**For more information on the New Jersey AOC's ADA program, you may contact the Court Access Unit, PO Box 985, Richard Hughes Justice Complex, Trenton, New Jersey 08625 or email [ernest.comer@judiciary.state.nj.us](mailto:ernest.comer@judiciary.state.nj.us).**