

Policy on Solicitation and Use of Medical Documentation
Supporting Requests for
Modifications under the Americans with Disabilities Act

The Judicial Branch complies with the Americans with Disabilities Act (ADA) and its Amendments. The Judicial Branch does not require an individual with a disability to provide medical documentation in his or her initial request for a reasonable modification. However, when it is not readily apparent how a requested modification relates to an individual's impairment, it may be necessary for the Judicial Branch to require the individual to provide sufficient medical documentation about the disability and functional limitations. Consistent with Title II of the ADA the Judicial Branch uses a broad definition of disability in favor of expanded coverage and all requests are handled on a case-by-case basis.

The Judicial Branch will give primary consideration to the requested modification. The ADA, however, does not require the Judicial Branch to grant the requested modification if (a) the requested modification would result in a fundamental alteration of the Judicial Branch's services, programs, and activities or (b) the requested modification would result in an undue financial and/or administrative burden. In those cases, the Judicial Branch may offer an alternative modification. Additionally, the Judicial Branch may deny a request if it involves providing a service of a personal nature, if it is not directly related to the disability and/or if the request violates state or federal law. In those cases, the Judicial Branch may offer an alternative modification.

Medical Documentation. If the Judicial Branch determines that more information is necessary to fully and fairly evaluate the modification request, or to fully and fairly evaluate that a modification already granted continues to be an appropriate modification, the Judicial Branch may require the individual to provide medical documentation from a Qualified Licensed Professional, as defined below. The Judicial Branch will not accept medical documentation prepared by professionals participating as non-party support persons for the individual with a disability, because of the inherent conflict of interest associated with such an arrangement. Any cost to obtain such documentation is the obligation of the person requesting the modification.

Medical documentation must be reasonably current, for example it should be dated within the last 12 months. Documentation dated more than 12 months from the date the request is submitted may suffice, depending on the nature, severity, duration and impact of the disability.

The individual with a disability may be required to have his or her Qualified Licensed Professional provide answers to the following questions:

- 1) What is the nature of the impairment?
- 2) Please identify the major bodily function or major life activity that is limited as a result of the impairment.
- 3) How does the impairment affect each major life activity specified in # 2 above? To what extent does the illness/condition limit the major life activity above?
- 4) What mitigating measures do you recommend?
- 5) How long do you anticipate these modifications to be required?

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Documentation is sufficient if it:

- (1) describes the nature, severity, and duration of the impairment;
- (2) describes the activity or activities that the impairment limits;
- (3) describes the extent to which the impairment limits the individual's ability to perform the activity or activities;
- (4) substantiates why the requested reasonable modification is needed;
- (5) is reasonably current;
- (6) is provided by a Qualified Licensed Professional who has expertise to give an opinion about the individual's medical condition and the limitations imposed by it; and
- (7) is typed or printed on official letterhead, signed by a Qualified Licensed Professional who is qualified to make the diagnosis.

If the documentation provided is deemed insufficient, the Judicial Branch will promptly communicate this fact to the individual and allow the individual a reasonable amount of time to provide proper documentation.

Confidentiality concerns. The Judicial Branch agrees to use medical documentation solely to assess the appropriateness of the requested modification. Medical documents acquired in connection with a request for an administrative accommodation will not become part of the public files. Such medical documentation may be retained in electronic format, paper format or both, and shall be retained for at least 10 years, except that medical documentation concerning a lifetime condition shall be retained for at least 25 years. The database of accommodations may be retained indefinitely. Medical documents acquired in connection with a request for a judicial accommodation may become part of the court file unless the documents are sealed by the Court.

Definitions:

Qualified Licensed Professional: An individual who is licensed and possesses expertise in the disability for which modifications are sought. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

Disability: A physical or mental impairment that substantially limits one or more major life activities of such individual.

Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working; and the operation of major bodily functions.

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Major Bodily Functions include, but are not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Administrative Accommodations: Requests made pursuant to the ADA for aids and services that may be provided to an individual with a disability. Examples include, but are not limited to, requests for assistive listening devices, sign language services, Communication Access Realtime Translation (CART) services, audio recordings, document remediation, and the use of a support person in non-confidential proceedings.

Judicial Accommodations: Requests made pursuant to the ADA that impact court process or the judge's control of the courtroom. Examples include, but are not limited to, requests for a continuance, extensions of time, to participate in a proceeding via videoconference or teleconference, to modify the way testimony is to be given, to take frequent breaks during court proceedings, or to be permitted to remain seated during a proceeding.