

Policy on Requests for Continuances Based Upon a Disability Under the Americans with Disabilities Act

If a continuance is sought as a modification under the Americans with Disabilities Act, and the request is filed with a local ADA contact or the central ADA office, the local ADA contact or the central ADA office shall determine (1) if the person making the request is a qualified individual with a disability, and (2) whether the requested modification is directly related to the individual's identified disability. If the request is made directly to the court, it shall be referred to the local ADA contact or the central ADA office for the purpose of making this determination.

If a determination is made that the person making the request is a qualified individual with a disability and that the requested accommodation is directly related to the individual's identified disability, the local ADA contact or the central ADA office shall notify the judge handling the matter. The judge shall then determine if the continuance would cause a fundamental alteration of the process or create an undue financial or administrative burden.

When determining if a continuance will result in a fundamental alteration of the process or create an undue financial or administrative burden, the court shall consider whether the party's request is in the interests of justice and whether it will impair the orderly conduct of the proceedings. Factors that the court may consider include, but are not limited to, the following:

- a. the timeliness of the request
- b. the history of continuances
- c. any objection by the opposing party
- d. the impact on the other party
- e. any other factors the court deems appropriate.

If it is determined by the court that the modification does not cause a fundamental alteration of the process or create an undue financial or administrative burden, the logistics of the request will be handled consistent with current practice (i.e. notice to caseload and parties, etc.). If it is determined that the continuance would create a fundamental alteration of the process or create an undue financial or administrative burden, the request will be denied and the local ADA contact or the central ADA office will communicate with the qualified individual to determine whether an alternative modification is possible, and if not, the individual will be informed of the Judicial Branch's ADA grievance process.