

Court System Accessibility Best Practices Checklist

October 25, 2018 By [William Goren](#) [Leave a Comment](#)

As readers of this blog know, I don't usually blog more than once a week. However, I had a moment and a real cool idea already in the can so to speak, so here goes.

At least once a month, I get a call from someone around the country talking about how the court system is inaccessible. Usually, it is coming from a Family Court, but not exclusively so. Also, whether this State is red or blue doesn't matter. I am proud to say that the State of Georgia has been busy working on these issues, and I have been doing what I can to help in a variety of ways, including, for example, volunteering to come up with a courtroom accessibility best practices checklist. I thought the readers of this blog would really appreciate it if I modified that list for our blog.

The following is a nonexclusive list of considerations for ensuring persons with disabilities have meaningful access per the ADA and §504 of the Rehabilitation Act (the latter may apply if federal funding is involved). Also, the list is not not exhaustive, and is also not a substitute for obtaining knowledgeable legal counsel on ADA matters as all of this can get really complicated as we know.

1. Make sure judges and administrative staff receive quality training from ADA knowledgeable individuals. I have often wondered just who is providing the training when it comes to ADA compliance across all ADA titles. Typically, when there is an ADA dispute and it settles, training is a required part of the settlement. If the training is good, I don't understand why these things keep happening. Training should also be regular. Further, you need to have an ADA/§504 knowledgeable person/attorney to help out with the complicated questions that arise.
2. Have an ADA/§504 coordinator and an ADA/§504 grievance procedure. If the Rehabilitation Act applies, you need to have this if you have more than 15 employees. If only the ADA applies, you need to have it if you have more than 50 employees. Regardless, having both is excellent preventive law.
3. Don't be afraid to get help from knowledgeable ADA counsel as ADA and §504 are extremely complicated. Also, don't be afraid to bring in outside experts or ask for briefing. Check your State for the judicial rules in this area. For example, Georgia allows a court to bring in an outside expert to help sort things out providing all the parties are on notice as to why the expert is being brought in and what the expert will do. Your State may have similar rules.
4. The interactive process is critical. Remember, one size does not fit all. The ADA focuses on an individualized analysis.

5. Judges and all personnel should know the definition of a disability as amended by the ADA Amendments Act. The bottom line is that after the amendments it's going to be really difficult to find that a person does not have a disability.
6. Make sure judges and all personnel are familiar with the federal regulations on service dogs and effective communication. With respect to service dogs, keep in mind, that it is entirely possible that your State laws on service dogs fall below the standard set by the DOJ in their final implementing title II and title III ADA regulations. With respect to effective communication, I really like this guidance, [which we discussed in this blog entry](#). I realize that the guidance is not applicable to the court system, but it is so good that it should be useful in this context.
7. With respect to effective communication pertaining to court access, remember primary consideration must be given to the individual's preferred mode of communicating because courts are public entities.
8. Make sure all requests for modifications are handled timely and with respect. If requesting documentation, make sure that documentation is narrowly focused and not excessive.
9. Don't charge a person with a disability for any accommodations/modifications.
10. Read [Silva v. Baptist Health South, Florida](#), 856 F.3d 824 (11th 2017). I have not blogged on this case. That said, I did co-counsel with an attorney here in Atlanta on an effective communication case involving a doctor and a hospital that did not provide an ASL interpreter for culturally deaf, Deaf, individuals. This case is a real game changer for the culturally deaf. It says that effective communication does not occur under the Rehabilitation Act if the communication hinders the culturally deaf individual's understanding of what is being said. *Silva* took place in the medical context, but its reasoning easily transfers to the legal arena.
11. Remember reasonable accommodations/modifications are whatever gets the person with disability to the same starting line as a person without a disability. Reasonable accommodations/modifications must be done unless there is an undue burden or a fundamental alteration, both of which, as we know, are terms of art and are very difficult standards to meet.
12. Perform a self-evaluation plan. This plan should have been completed in 1992. If not done already, get one done.
13. Develop a transition plan to resolve issues arising from the self-evaluation plan.
14. Make sure people are aware of how to request accommodations.
15. Is the court's website meaningfully accessible per the ADA (WCAG 2.0 AA is the gold standard), for persons with disabilities. Pay particular attention to screen readers, voice dictation, and captioning of audio. Also, keep in mind that a website may be accessible for voice dictation users but not for screen readers and vice versa.
16. Establish specific flexible procedures to address reasonable accommodation/modification request and to meet recurring accessibility needs. That is, do have procedures, but make sure they are flexible enough to deal with every situation being entirely different.
17. Your State may have a judicial handbook for courtroom accessibility. Georgia has one, and it is excellent.

18. For a resource, you can always look at this blog. I really love its search engine and use it all the time.

Next week, I explore once again just what is a service establishment. Without spoiling everything, let me say there is now a clear-cut Circuit Court split on the issue. In the meantime, you might want to [review this blog entry](#).

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