

**Denial of Accommodation  
Requested by Court User**

**Person for who accommodation is sought:** \_\_\_\_\_

Address:

Telephone Number:

**Date of initial request:**

**Person's status:**

Juror       Party       Witness       Attorney       Other (*specify*)

**Court:**

**Judge (if applicable):**

**Case name and number (if applicable):**

**Type of disability:**

**Accommodations(s) requested:**

**Reason(s) for denial:**

(*Check all that apply and provide specific explanation*)

- Person is not disabled. *Explain:*
  
- Person is disabled, but the court is not required to provide an accommodation. *Explain:*
  
- Request accommodation(s) would create undue financial or administrative burden.  
*Explain:*
  
- Requested accommodation(s) would fundamentally alter the nature of program, service, or activity. *Explain:*
  
- An alternative accommodation that would allow full participation in the proceeding is available. *Explain:*

**Person denying request:**  
(Choose one)

This request was denied by the undersigned in consultation with the office of the Statewide ADA Coordinator. (*District Executive and Chief Clerks only*)

\_\_\_\_\_  
Signature (date)

\_\_\_\_\_  
Print name and title  
(District Executive /Chief Clerk)

[Copy to person requesting accommodation; copy to Statewide ADA Coordinator. This form is confidential.]

## Explanation of Denial of Accommodation Request Form

This form is necessitated by United States Department of Justice regulations implementing Title II of the Americans with Disabilities Act (“ADA”). As a public entity, a court must “take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communication with others.” 28 CFR § 35.160(a). The court must “furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the court. 28 CFR § 35.160(b)(1). When a request to accommodate an individual’s disability is denied, the decision to do so “must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.” 28 CFR § 35.164.

*UCS policy is to accommodate persons with disabilities to the fullest extent possible; flexibility and creativity are encouraged in responding to requests for accommodations.* This form should only be used when the court *declines* to provide a requested accommodation. This form does not have to be filled out if a requested accommodation – or a mutually acceptable alternative accommodation – is provided.

The decision to deny an accommodation should be made only by:

- (a) a judge on a request for accommodation in a matter before the judge, or, in all other circumstance,
- (b) either the District Executive or the Chief Clerk, in consultation with the office of the court system’s Statewide ADA Coordinator. The office of the Statewide ADA Coordinator for the Unified Court System is at 25 Beaver Street, New York, NY 10004, and can be reached at (212) 428-2761. The current Statewide ADA Coordinator is Nancy Mangold.

**Person’s status.** Note that the Justice Department interprets the ADA as applying to spectators as well as direct participants in court activities.

**Type of disability.** A general description (e.g., hearing-impaired, mobility-impaired, blind, deaf, etc.) is all that is needed, not a medical diagnosis. Use the description provided by the person requesting the accommodation.

**Accommodations(s) requested.** Specify the type of accommodation(s) requested (e.g., interpreter, assistive listening device, real-time reporting, reader, braille materials, etc.), the stage and extent of the proceeding for which it is sought (e.g., pretrial hearing, jury selection, trial, limited portion of trial, etc.), and the approximate length of time it would be required. Note that in addition to auxiliary aids or services, accommodation requests may also be directed at overcoming physical barriers (e.g., relocation of proceedings, filing papers at an alternative location, etc.).

**Reason for denial.** If an accommodation is denied, it must be for one or more of the reasons listed below.

Person is not disabled. The person does not meet the definition of disabled under the ADA. A person is considered disabled under the ADA if he or she has a physical or mental impairment that substantially limits one or more major life activities, or has a record of such impairment, or is regarded as having such an impairment. When an accommodation is requested, medical proof of a disability may be requested at the court’s discretion. Remember that medical information should be kept confidential to the fullest extent possible.

Person is disabled, but the court is not required to provide an accommodation. Although the person is disabled, there is no obligation to provide an accommodation if it is sought for the purposes of participating in a non-court service, program or activity (e.g., a deposition). There is also no obligation to provide purely personal or individually prescribed devices (e.g., a wheelchair, eyeglasses, hearing aid) or services (e.g., assistance in toileting). Also, a disabled person who is not otherwise eligible to participate in a court activity does not require an accommodation (e.g., a disabled person who is not qualified to serve as a juror because he or she is not a U.S. citizen).

Requested accommodation(s) would create undue financial or administrative burden. The court does not provide an accommodation where it can demonstrate that to do so would be overburdensome financially or administratively (e.g., a permanent interpreter for a deaf "court buff" who wished to attend proceedings on a daily basis). However, the court cannot deny a requested accommodation merely on the grounds that it may be inconvenient to provide, has not previously been provided in similar circumstances, may result in additional expense, or because the cost of the accommodation could be borne by the parties.

Requested accommodation(s) would fundamentally alter the nature of the program, service or activity. The court does not have to provide an accommodation that would impermissibly change or interfere with the essential nature or features of the court activity or operation (e.g., changing the wording of a jury charge for a mentally retarded or developmentally disabled person). A judge does not have to provide an accommodation that would result in a denial of due process or otherwise violate the statutory or constitutional rights of a party; this determination should be made on a case-by-case basis.

An alternative accommodation that would allow full participation in the proceeding is available. The court is required to give "primary consideration" to the type of accommodation requested by an individual with disabilities. 28 CFR § 35.160(b)(2). However, the court does not have to grant the request if the court can provide an alternative accommodation that would ensure the disabled person the same degree of participation as that of a non-disabled person. If a person indicates that, despite their preference for the requested accommodation, the proposed alternative would permit their full participation, then the proposed alternative is an acceptable option. A proposed alternative accommodation is *not* acceptable if it would permit the person to participate in only "some" or "most" of the proceedings. Reminder: this form does not have to be filled out if the persona with a disability has agreed to accept the proposed alternative accommodation; this category should be checked off whenever an alternative accommodation has been offered and declined.

Completed forms are confidential and should not be made available for public inspection. For further explanation of this form, and general assistance in responding to accommodation requests, contact the office of the Statewide ADA Coordinator.