



ADA & Effective Communication

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Overview



Title II of the ADA – The Basics

Program Access

- Notices
- Effective Communication
- Reasonable Modifications & Accommodations

Question and Answer



Topics Not Covered

- Website and Information Technology
- Facilities
- Public Right-of-Way
- Service and Support Animals
- Title I: Employment
- Title III: Public Accommodations
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions (enforcement and relationship to other laws)

ADA Overview



The Americans with Disabilities Act (ADA)

- The Americans with Disabilities Act (ADA) of 1990 is a civil rights law that affirms and protects the rights of people with disabilities to participate in public life.
- Title II addresses requirements for public entities (28 CFR Part 35)
- Public entities are required to provide services, programs, and activities in a manner that is **readily accessible to and usable** by people with disabilities.





Who is protected under the ADA?

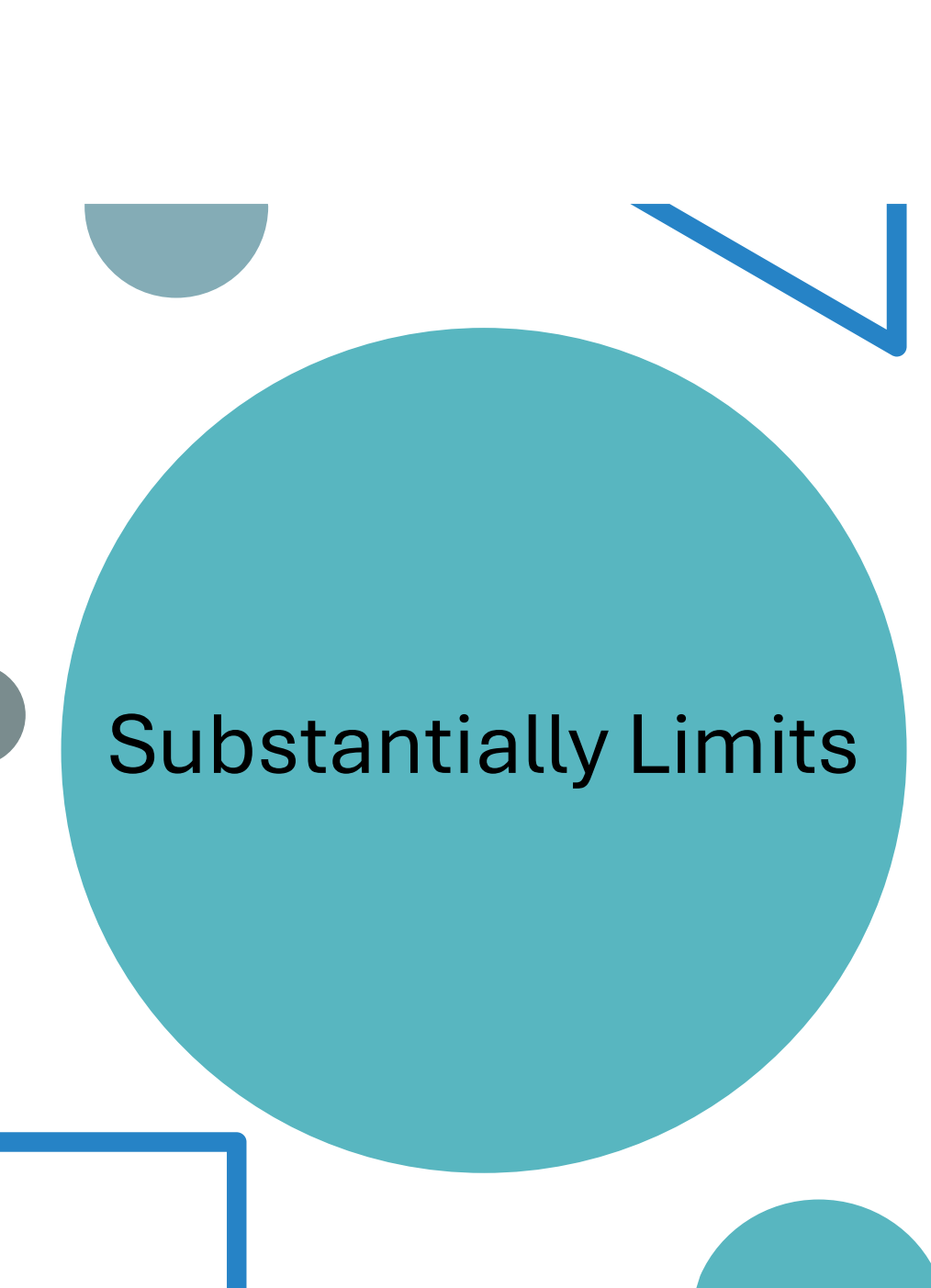
The ADA defines a person with a disability as someone who meets at least one of these descriptions:

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a record or history of an impairment, or
- Is regarded as having such an impairment.



Major Life Activities

- 
- self-care tasks
 - performing manual tasks
 - seeing
 - hearing
 - eating
 - sleeping
 - walking
 - standing
 - sitting
 - reaching
 - lifting
 - bending
 - speaking
 - breathing
 - learning
 - reading
 - concentrating
 - thinking
 - writing
 - communicating
 - interacting with others
 - working
 - operation of a major bodily functions (organ and body systems)
 - and more
- 



Substantially Limits

“as compared to most people in the general population”

Includes limitations that are addressed or supported with “mitigating measures” such as medications, hearing aids, assistive technology, learned behavioral or adaptive neurological modifications and more.

Predictable Assessments

Predictable assessments for many impairments will “**virtually always be found to impose a substantial limitation on a major life activity.**”

- Deafness,
- Blindness,
- Intellectual disability,
- Partially or completely missing limbs
- Mobility impairments,
- Autism,
- Cancer,
- Cerebral palsy,
- Diabetes,
- Epilepsy,
- Muscular dystrophy,
- Multiple sclerosis,
- HIV,
- Major depressive disorder,
- Bipolar disorder,
- Post-traumatic stress disorder,
- Traumatic brain injury,
- Obsessive compulsive disorder,
- Schizophrenia



Disability is Dynamic

Limitations can:

- Change over time
- Have environmental triggers
- Last for long or short periods of time
- Occur frequently or infrequently
- Vary in severity
- Be less apparent to others than to the person experiencing them

If the limitation affects a major life activity it is covered.

Broad Coverage

The definition of “disability” is applied in favor of expansive coverage.

The primary object of attention in cases brought under the ADA should be **whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of “disability.”**

AG Order 3702-2016, [81 FR 53223](#), Aug. 11, 2016

Invalidating our lived experience is not a compliment.



Telling us we don't look Disabled only makes your ableism visible.



Program Access

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

General Prohibitions Against Discrimination

A public entity may NOT directly (or through contracts, licensing, or other arrangements), on the basis of disability:

- Deny the opportunity to participate in benefits, aid, and services.
- Provide services that are not equal to, not as effective as, or separate from those provided to others.
- Use eligibility criteria that would screen-out or disqualify a person or a group of people with disabilities.
- Deny the opportunity to participate on planning and advisory boards.
- Otherwise limiting the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.



Other Prohibitions Against Discrimination

- Surcharges that only apply to people or groups of people with disabilities.
- Hold meetings and events in inaccessible locations (specifically for people who use mobility devices and/or service animals)
- Safety requirements not based on actual risk (speculation, stereotypes, or generalizations about people with disabilities)
- Excluding or denying equal services, because a person has a relationship or association with a person with a disability.



Obligations of Public Entities

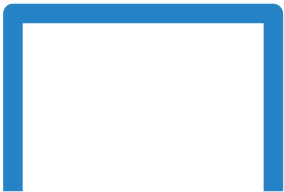
- Programs, services and activities must be readily accessible and usable for people with disabilities.
- Provide notice about the availability of accommodations and how to request them.
- Provide reasonable accommodations/modifications to policies, practices, and procedures where needed to prevent discrimination.
- Ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.





Notices

Provide notice about the availability of accommodations and how to request them.





Notices about Accommodations & LAP

Under the ADA, public entities are required to post notices about the availability of accommodations how to ask for them.

Department of Civil Rights has developed standard notices.

- Include standard language on all meeting notices and invitations.
- Post office notices at front desks and include information on websites where appropriate.

Why is our Notice Different than Other Cities?

- We prioritized the user's needs
 - We've integrated Title VI requirements
 - We use plain language
- 



Language Access and Effective Communication for People with Disabilities

You have the right to an interpreter, translation services, and disability-related accommodations at no cost to you.

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rws rwsdrws rwsdrws rwsdrws rwsdrws rwsdrws rwsdrws.

How to File an Equal Opportunities Complaint:

- Online: www.cityofmadison.com/CivilRightsComplaint
- In-person: Monday – Friday 8:00 a.m. – 4:30 p.m. at City County Building, 210 Martin Luther King Jr Blvd. Room 523, Madison, WI 53703
- Request a complaint form by mail by calling (608) 266-4910

Usted tiene derecho a un intérprete, servicios de traducción y adaptaciones especiales relacionadas con alguna discapacidad sin costo alguno para usted.

Para más información, póngase en contacto con:

- EL Programa de Acceso Lingüístico al correo: lap@cityofmadison.com o al (608) 266-4910
- EL Programa de Derechos y Servicios para Personas con Discapacidades al correo: RHoyt@cityofmadison.com o al (608) 266-6511

Cómo presentar una queja ante la división de igualdad de oportunidades:

- En línea: www.cityofmadison.com/CivilRightsComplaint
- En persona: de lunes a viernes de 8:00 a.m. a 4:30 p.m. en el Edificio del Condado de la Ciudad, 210 Martin Luther King Jr Blvd. Oficina 523, Madison, WI 53703
- Para solicitar un formulario de queja por correo llame al (608) 266-4910

您有權獲得免費口譯員、翻譯服務和與殘疾相關的便利，

如需更多信息，請聯系：

- Language Access Program (語言服務項目) lap@cityofmadison.com 或 (608) 266-4910
- Disability Rights and Services Program (殘疾人權利和服務項目) RHoyt@cityofmadison.com 或 (608) 266-6511

如何提交平等機會投訴：

- 在線: www.cityofmadison.com/CivilRightsComplaint
- 本人到現場: 周一至周五，上午8:00至下午4:30，在市縣大樓，210 Martin Luther King Jr Blvd. 523室，Madison, WI 53703
- 致電 (608) 266-4910 以郵件方式索取投訴表格

Koj muaj cai thov tus neeg txhais lus, kev pab txhais lus, thiab kev pab cuam uas cuam tsh-uam txog kev tsis taus yam dawb dawb rau koj xwb.

Yog xav paub ntiv hu rau:

- Qhov Kev Pabcuam Kev Siv Lus ntawm lap@cityofmadison.com los sis (608) 266-4910
- Disability Rights and Services Program ntawm RHoyt@cityofmadison.com los sis (608) 266-6511

Yuav Ua Li Cas Ua Daim Ntawv Tsis Txaus Siab Sib npaug:

- Online: www.cityofmadison.com/CivilRightsComplaint
- Tim tsej Tim muag: Monday - Friday 8:00 a.m. - 4:30 p.m. ntawm City County Building, 210 Martin Luther King Jr Blvd. Room 523, Madison, WI 53703
- Thov xa daim ntawv tsis txaus siab los ntawm kev hu rau (608) 266-4910

For more information contact:

- Language Access Program at lap@cityofmadison.com or (608) 266-4910
- Disability Rights and Services Program at RHoyt@cityofmadison.com or (608) 266-6511





Meeting Notices and Invitations

To request interpretation, translation or a disability-related accommodation at no cost to you, contact [agency phone] or [agency email].

Para solicitar interpretación, traducción o una adaptación especial relacionada con alguna discapacidad sin costo alguno para usted, comuníquese al [phone] o al correo [email].

如需免費提供口譯、筆譯或殘疾相關的便利服務，請聯系[phone]或[email]。

Koj muaj txoj cai tau txais kev txhais lus, kev pes lus los sis kev pab cuam txhawm rau kev tsis taus uas tsis muaj nqi rau koj: Xav paub ntxiv tiv tauj rau [phone] los sis [email].



****Any change to this language must be approved by the Language Access Program****



Last Minute Requests for Events



We do not impose a timeline for requests for accommodations and language access services.

We will work with the individual to determine the most effective mode of communication or accommodation within available options.



Effective Communication

Ensure that communications with
applicants, participants, members of the
public, and companions with disabilities
are as effective as communications with
others



Auxiliary Aids and Services

Public entities must provide auxiliary aids and services that afford equal opportunity to participate in, and enjoy the benefits of, the service, program, or activity.

“Auxiliary aids and services” are the tools and supports used by people who have disabilities to communicate. We call them “language access services.”

They must be provided in an accessible format, timely, and respect the privacy and independence of the person with the disability.





Appropriate & Effective Services

Primary consideration **must** be given to the requests of the person with a disability.

The type of service necessary to ensure effective communication will vary based on the:

- How the person with a disability communicates
 - What is being communicated (nature, length, and complexity)
 - Where and when the communication takes place
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28 CFR § 35.160

Always offer an interpreter!

Even if the person has another adult with them who is available,

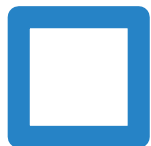
- This person may not be impartial
- This person may not be familiar with the terminology
- It does not afford the same level of independence as a qualified interpreter
- Speaking/Signing in-language is a different skillset than interpreting
- It's the Law!



Non-Qualified Interpreters

Under the ADA people with disabilities may not be required to bring their own interpreters AND there are very specific rules about when an accompanying person can interpret or facilitate communication:

1. The person with the disability made a specific request of the person to interpret or facilitate communication,
2. That person is an adult,
3. The accompanying adult agrees to interpret or facilitate communication, and
4. Reliance on that adult for such assistance is appropriate under the circumstances.



Non-Qualified Interpreters in Emergencies

ONLY in an emergency involving

- An imminent threat to the safety or welfare of the individual or the public
- Where there is no interpreter available
- Minors may only be used in emergencies if no interpreter or adult is available



Services for Companions

“Companion” includes any family member, friend, or associate of a person seeking or receiving services who is an appropriate person with whom the entity should communicate.

Examples:

Parent/guardian of child in a childcare program

Spouse or member of the household assisting with services for the household

Family member of a dependent adult who is accessing services





Language Access Program

The Language Access Program coordinates the following services for all City programs:

- Qualified interpreters
 - Translation services
 - Communication Access Realtime Translation (CART)
 - Auto-generated captioning available in all internal and public virtual meetings
 - Assistive listening systems and devices
 - Braille materials
 - Plain language consultation
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Agency Responsibilities

Each agency **must** provide the following services directly to members of the public upon request:

1. Materials in alternative formats (large print, audio recording, electronic format, etc.)
 2. On-demand spoken and video remote interpretation (VRI), relay services
 3. Qualified notetakers and readers, and other similar services
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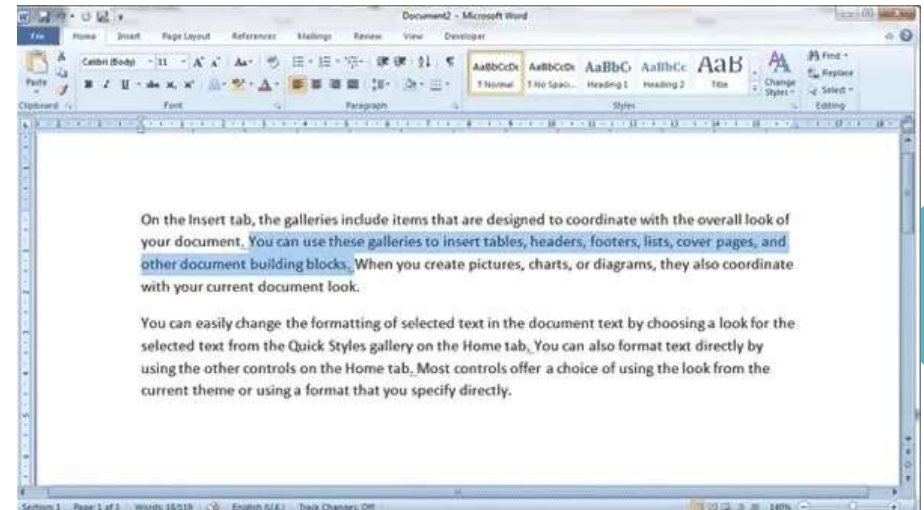
Agencies facilitate requests for Language Access Program services by emailing lap@cityofmadison.com

Alternative Formats

The format needed is determined by the person with the disability.

Examples include:

- Large Print (14+ point font)
- Accessible electronic document (readable pdf or word doc)
- Audio format (mp3 or another recorded file)
- Braille (email lap@cityofmadison.com)





Video Remote Interpretation (VRI) & Wisconsin Relay Services

- [Insight Language Line](#) is the On-Demand Video Remote Interpretation service used by the City of Madison to communicate with members of the public who use sign language.
 - Contact lap@cityofmadison.com for information about how to activate a device.
 - For training: [Language Access: Using Language Line Solutions](#)
 - [Wisconsin Relay Services \(711\)](#), The City of Madison must accept and respond to callers who use Wisconsin Relay Services in the same manner it accepts and responds to other callers.
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Qualified Notetakers & Readers

- Qualified: A person who can read/write effectively, accurately, and impartially using any necessary specialized vocabulary.
 - Readers: Read text
 - Notetakers:
 - Pass notes (as opposed to verbal communication between two people)
 - Summarize/noting key information such as steps in a process or deadlines or deadlines
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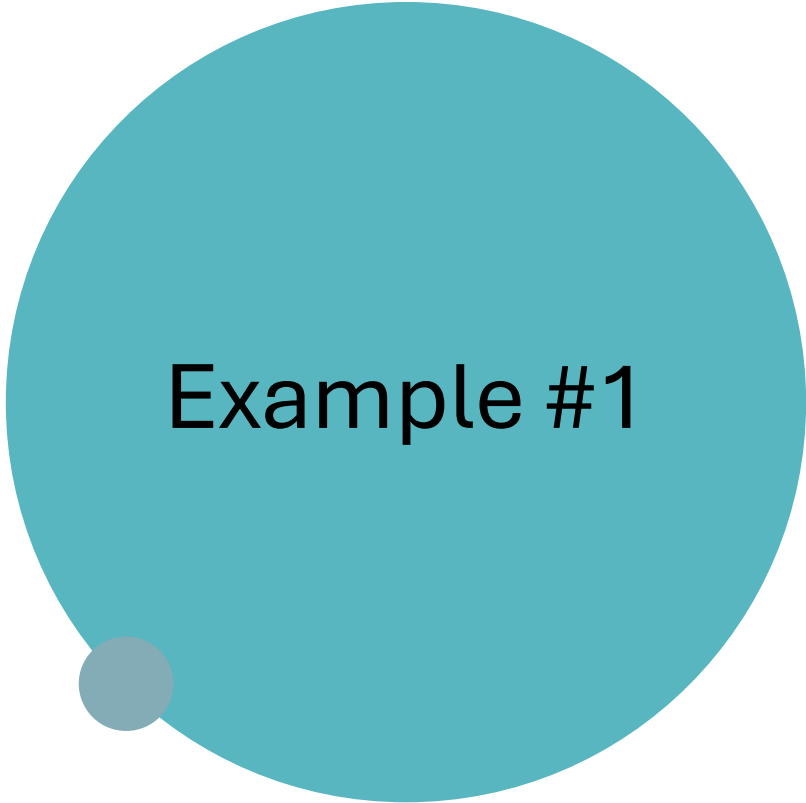
Most often agency staff are the most qualified given the subject matter.



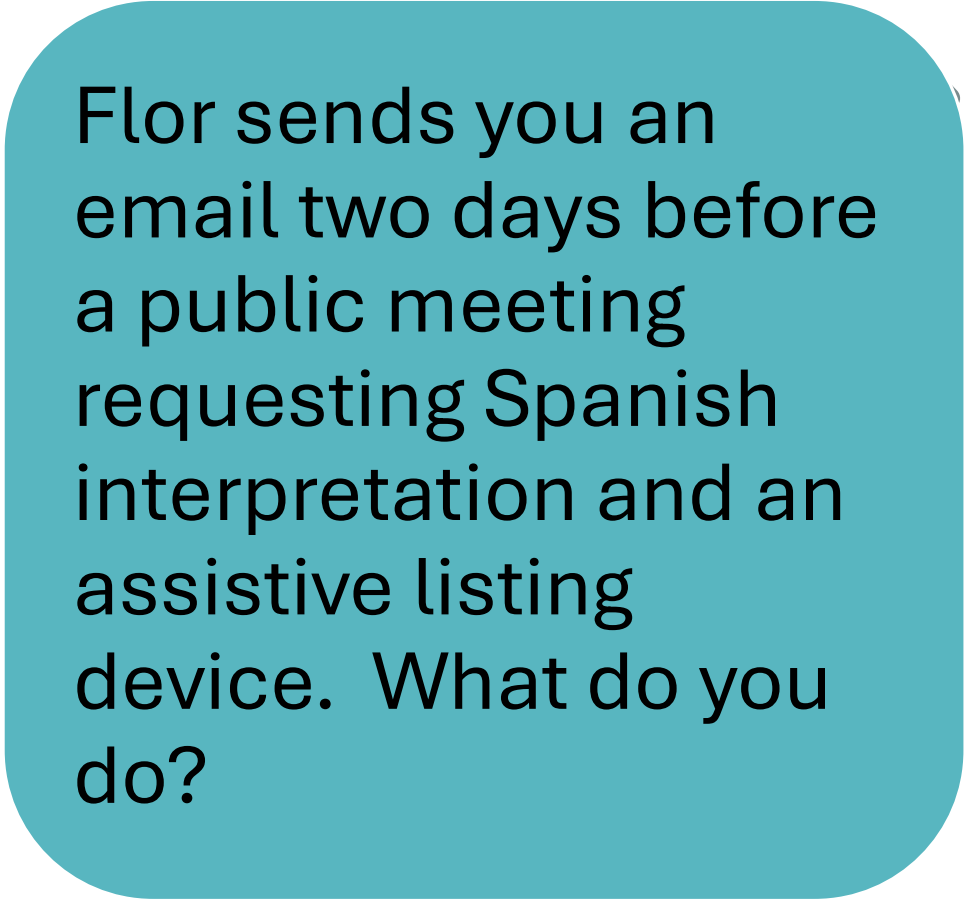
Here to Support You

Programs should consult with the Disability Rights and Services Program if:

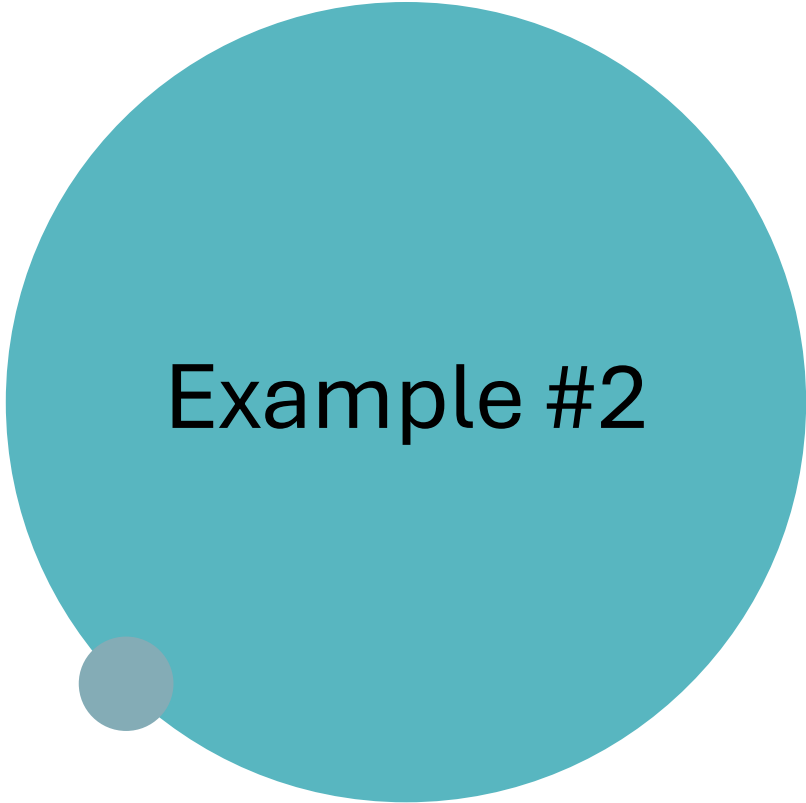
- You need support
 - You are not sure how to meet the person's communication needs
 - You think you may not be able to provide the requested auxiliary aid or service, and
 - **Before you deny a requested auxiliary aid or service**
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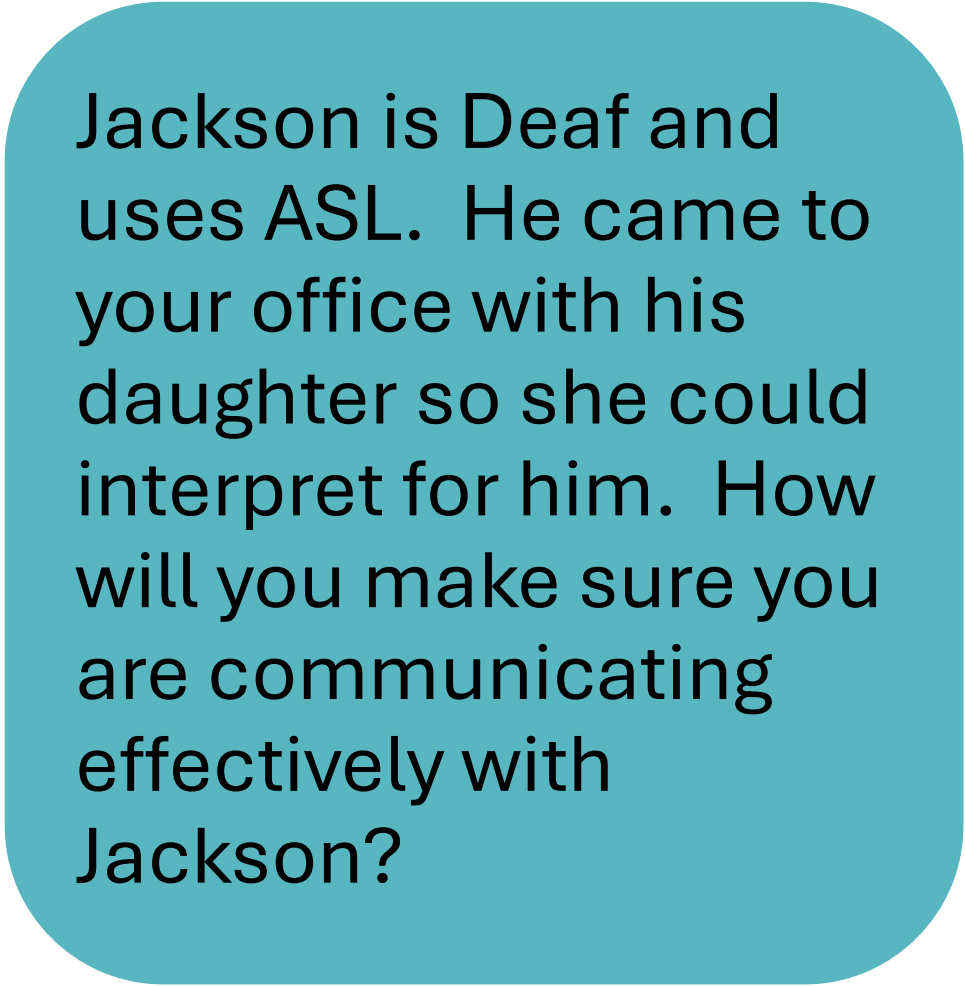
Example #1



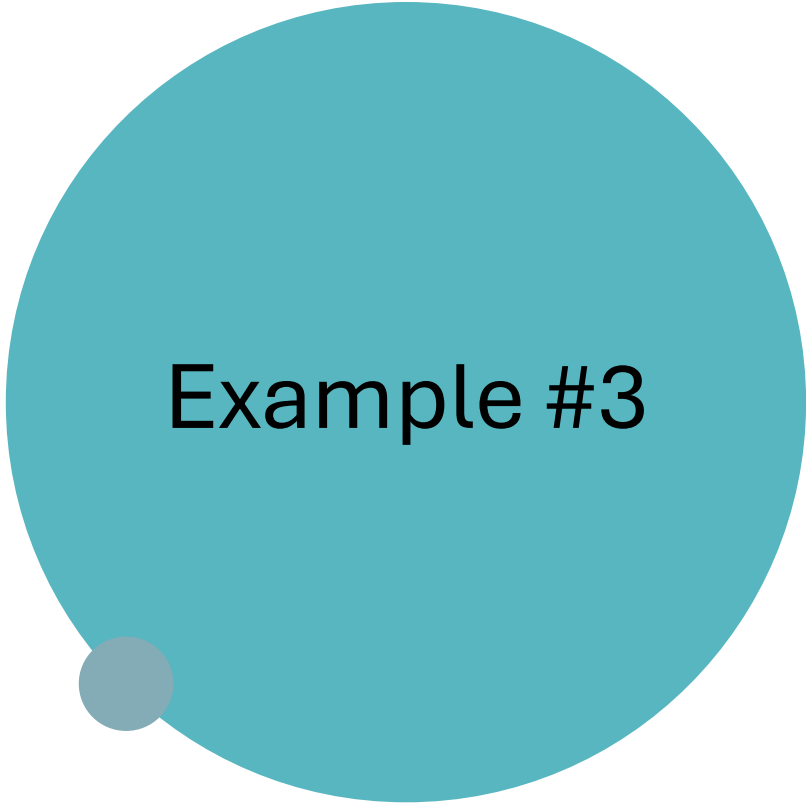
Flor sends you an email two days before a public meeting requesting Spanish interpretation and an assistive listening device. What do you do?



Example #2



Jackson is Deaf and uses ASL. He came to your office with his daughter so she could interpret for him. How will you make sure you are communicating effectively with Jackson?



Example #3



Evelyn is Blind and needs to fill out forms for your agency. What accommodations would you offer or explore?



Reasonable Modifications & Accommodations

Any change to a policy, practice, or procedure that is necessary for a person with a disability to have equal access to the services, programs, or activities of a public entity,

Accommodations vs. Access and Equity

Accommodations and Modifications = a rights-based approach driven by the complaint processes

Access and Equity = working to foster a barrier-free, inclusive, and thriving Madison by implementing innovative approaches to access, inclusion, and justice both internally and in City programs, services, and facilities.



Meeting Access Needs

Everyone has access needs.



Providing all people with the things they need to engage with programs, services, and activities is good customer service.



Builds and sustains spaces in our organizations where everyone's voice and lived experience can be heard.



Works toward dismantling barriers, disrupting power dynamics, and building stronger communities.

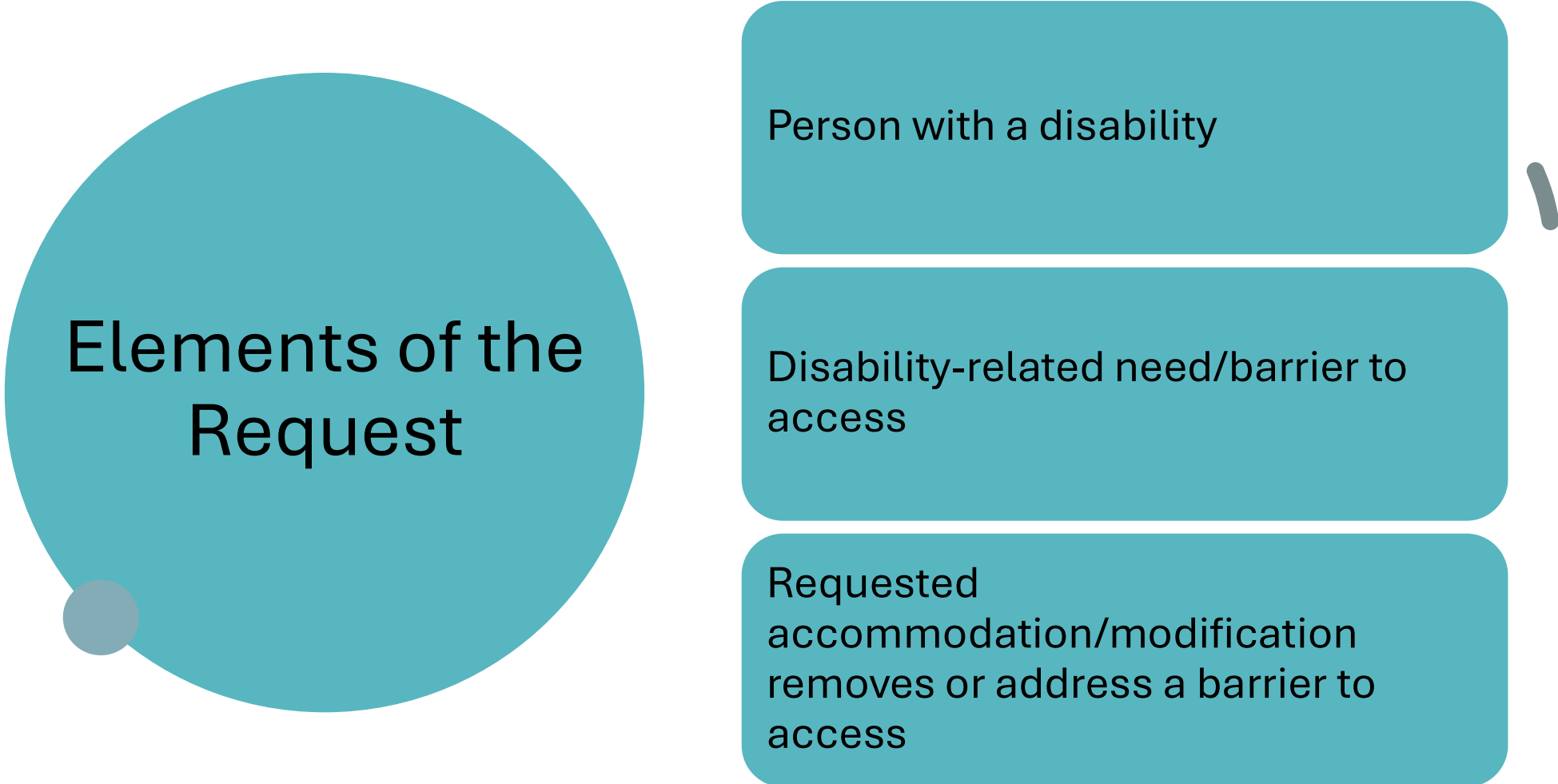




If You Can Meet
Someone's Access
Needs...

Do It!

No Legal Process Required



Elements of the Request

Person with a disability

Disability-related need/barrier to access

Requested accommodation/modification removes or address a barrier to access



Qualified Individual with a Disability

People with disabilities must meet the essential eligibility requirements for programs, aid, and services.

Example:

A person with a disability applying for the MadCap program, can request accommodations related to filling out the application, but still must meet the income requirements for the program.

Example:

A person who buys a ticket for an event where food will be served can request a gluten-free meal.





Navigating Challenges in the Process

Consult with the Disability Rights and Services Specialist (ADA Coordinator) if you need support:

- Obtaining more information about the person with the disability, their disability-related needs, or clarifying their request,
 - Providing the accommodation,
 - Engaging in the interactive process to explore alternatives, and/or
 - **Before you determine if a denial is appropriate.**
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Interactive Process



The interactive process is a dialog between the person with the disability to identify potential reasonable accommodations that could remove the barrier to access.

If the requested accommodation is not available, there may other effective options.

Not Required under Title II



When Can a Request be Denied?

A public entity may deny a modification/accommodation when it can demonstrate it would result in:

- A **fundamental alteration** in the nature of a service, program, or activity, or
- An **undue financial and administrative burden** (28 CFR § 35.164).

Or would pose a **direct threat to the health or safety** of others (28 CFR § 35.139).



Consult with the Disability Rights and Services Specialist





Fundamental Alternation

A modification that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.

Examples:

- A park would not be required to install a dry zone for a powered mobility device user on a splash pad at a local park.
 - A grant program to support small business would not be obligated to offer a waiver of program requirements as an accommodation to a Disabled business owner with 500 employees.
 - A museum would not be required to allow an individual who is blind to touch delicate works of art if the art would be damaged.
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Undue Financial and Administrative Burden

Public entities are not required to provide personal devices or services such as mobility devices, hearing aids, eyeglasses, or personal assistance services (28 CFR § 35.135).

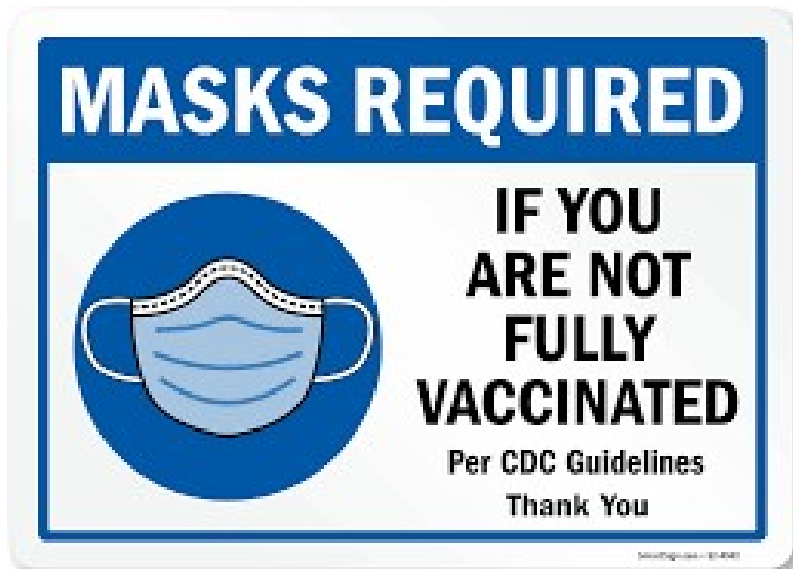
The determination of an undue financial and administrative burden must be:

- 
1. Made by the head of the public entity or their designee (in consultation with the ADA Coordinator).
 2. Accompanied by a written statement of the reasons.
 3. Based on all resources available for use in the program.

Example:
When only one staff person is on duty, it may or may not be possible to accommodate a person with a disability at that time without jeopardizing the safe operation of the public program or service.

Direct Threat to Health or Safety

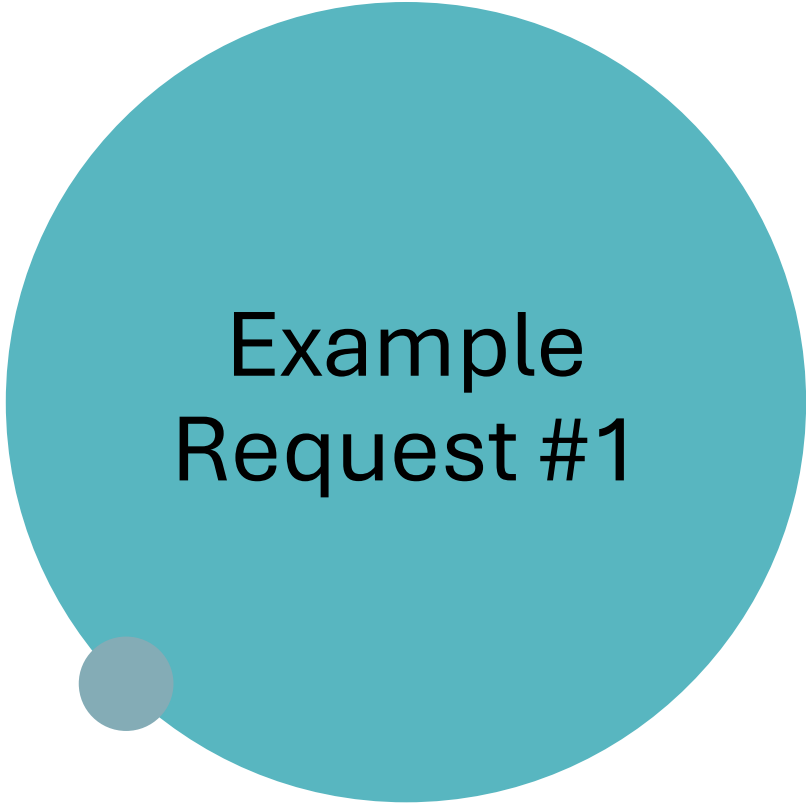
Significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation



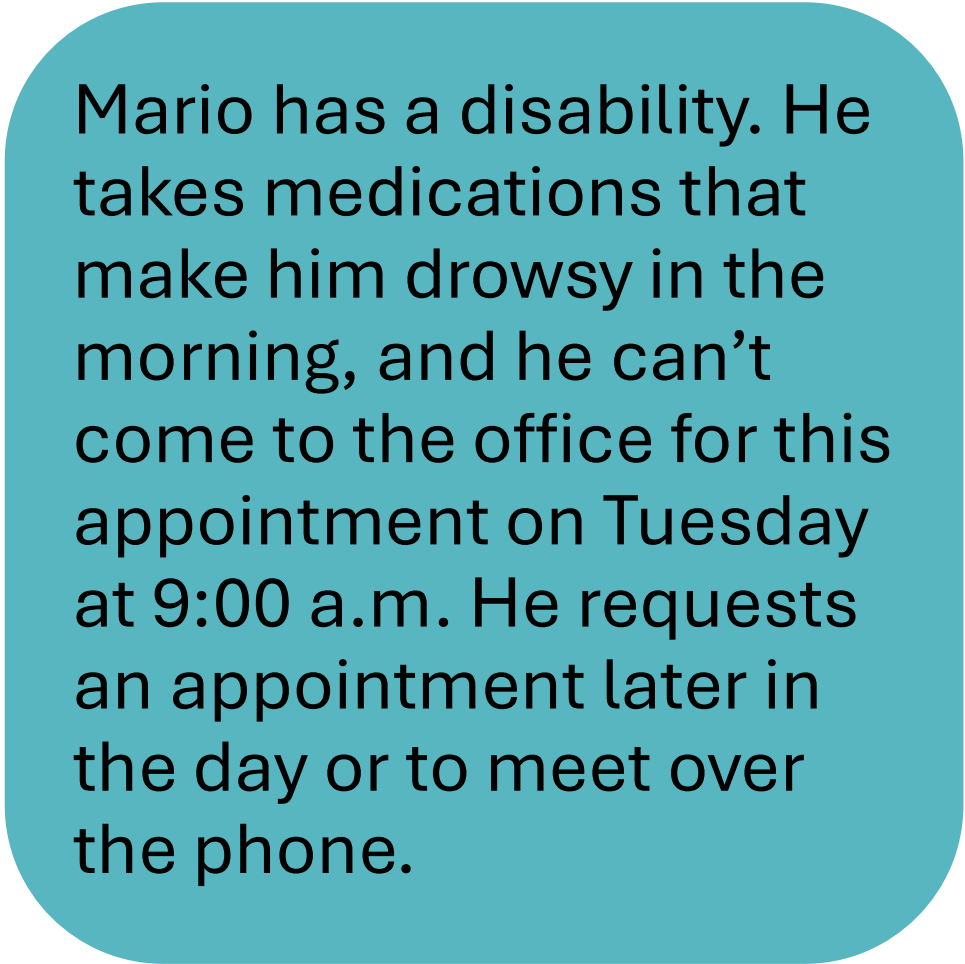


Keep in Mind

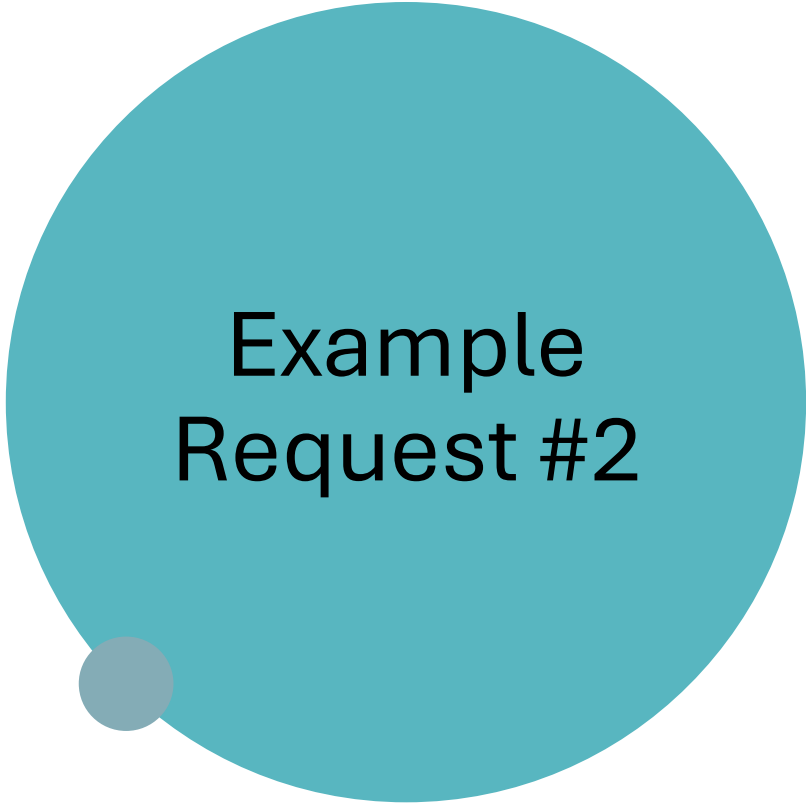
- Under the ADA, public entities are NOT prohibited from providing benefits, services, or advantages to individuals with disabilities, or to a particular class of individuals with disabilities (28 CFR § 35.130(c)).
 - No basis for a claim that an individual without a disability was subject to discrimination because of a lack of disability, including a claim that an individual with a disability was granted a reasonable modification that was denied to an individual without a disability (28 CFR § 35.130(i)).
 - A person with a disability is not required to accept an accommodation, aid, service, opportunity, or benefit which they choose not to accept (28 CFR § 35.130(e)(1)).
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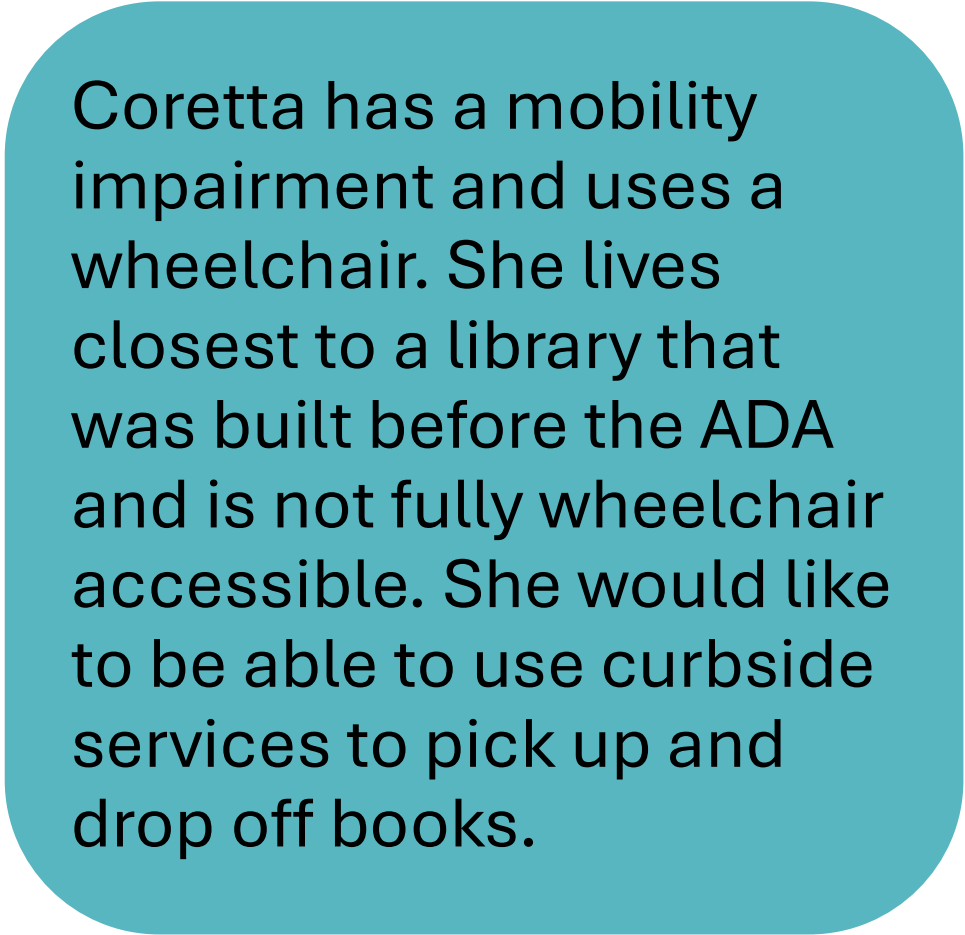
Example Request #1



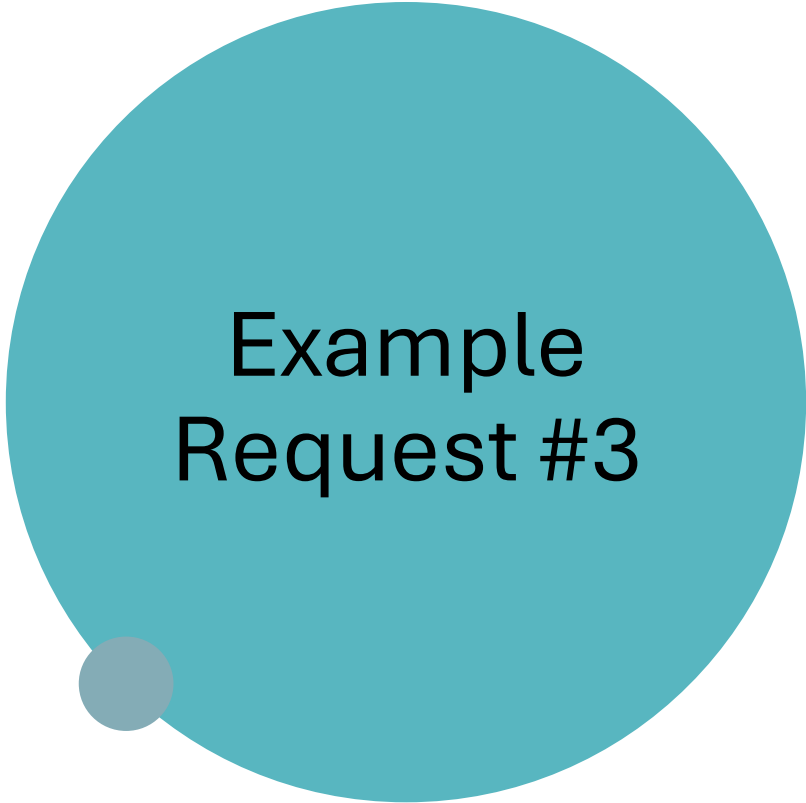
Mario has a disability. He takes medications that make him drowsy in the morning, and he can't come to the office for this appointment on Tuesday at 9:00 a.m. He requests an appointment later in the day or to meet over the phone.



Example Request #2



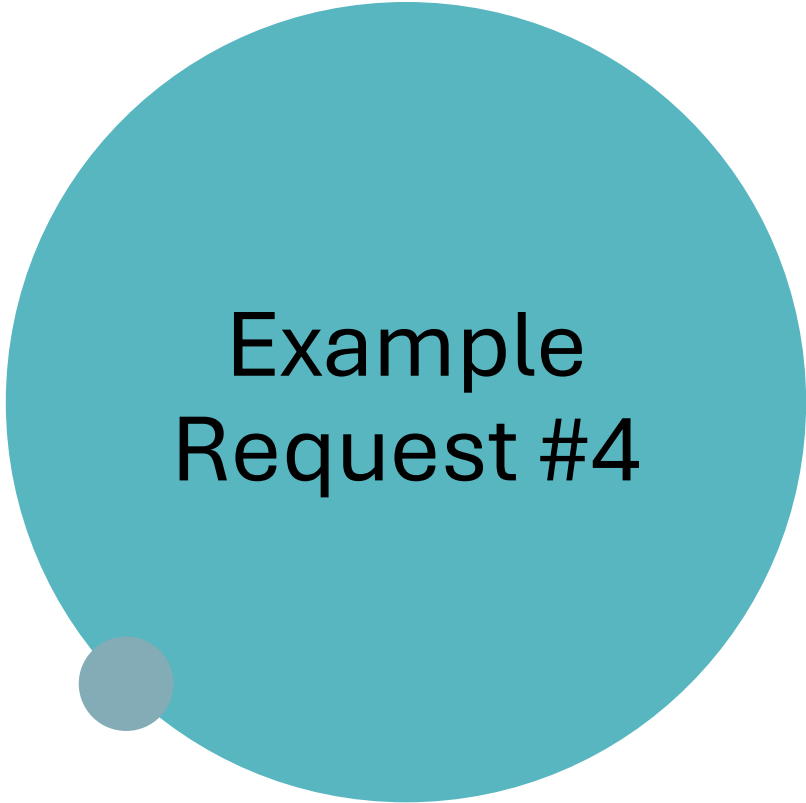
Coretta has a mobility impairment and uses a wheelchair. She lives closest to a library that was built before the ADA and is not fully wheelchair accessible. She would like to be able to use curbside services to pick up and drop off books.



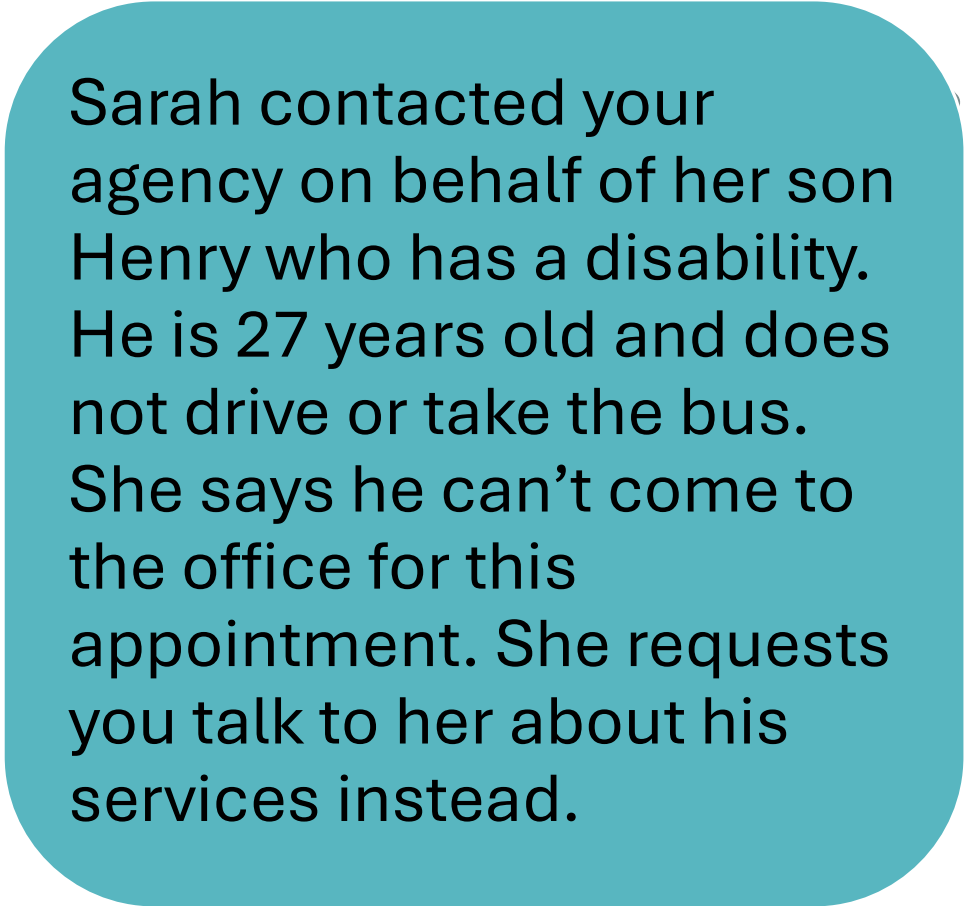
Example Request #3



Tarrel has a disability that affects his balance. He is going to the MMB for a public meeting and concerned about falling. He requests the City install handrails in the MMB hallways.



Example Request #4



Sarah contacted your agency on behalf of her son Henry who has a disability. He is 27 years old and does not drive or take the bus. She says he can't come to the office for this appointment. She requests you talk to her about his services instead.



Thank you

Rebecca Hoyt

Disability Rights and Services
Specialist (ADA Coordinator)

Department of Civil Rights

608-266-6511

RHoyt@cityofmadison.com

Language Access Program

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